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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Agriculture and Land Stewardship Department[21]

Replace Analysis

Replace Chapter 64

Real Estate Commission[193E]

Replace Chapter 11

Iowa Finance Authority[265]

Replace Chapter 12

Human Services Department[441]

Replace Chapter 98

State Public Defender[493]

Replace Analysis

Replace Chapter 1

Replace Chapter 4

Replace Chapter 10

Replace Chapter 12

Professional Licensure Division[645]

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Replace Chapter 240

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Replace Chapters 261 to 263

Replace Chapter 280

Replace Chapter 283

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Replace Chapter 304

Treasurer of State[781]

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Replace Chapter 9

Voter Registration Commission[821]

Replace Analysis

Insert Chapter 12

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

[Created by 1986 Iowa Acts, chapter 1245]
[Prior to 7/27/88, Agriculture Department[30]]
Rules under this Department “umbrella” also include
Agricultural Development Authority[25] and Soil Conservation Division[27]

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CHAPTER 64 INFECTIOUS AND CONTAGIOUS DISEASES

[Appeared as Ch 1, 1973 IDR]

[Ch 16, IAC 7/1/75 renumbered as 11.3, 12.1 to 12.33, and 16.24 and 16.25 renumbered 16.6 and 16.7

as per written instructions from Ag. Dept. 10/11/77]

[Prior to 7/27/88, see Agriculture Department 30—Ch 16]

21—64.1(163) Reporting disease. Whenever any person or persons who shall have knowledge of the existence of any infectious or contagious disease, such disease affecting the animals within the state or resulting in exposure thereto, which may prove detrimental to the health of the animals within the state, it shall be the duty of such person or persons to report the same in writing to the State Veterinarian, Bureau of Animal Industry, Wallace State Office Building, Des Moines, Iowa 50319, who shall then take such action as deemed necessary for the suppression and prevention of such disease. The diseases as classified by the Office International Des Epizooties are included. The following named diseases are infectious or contagious and the diagnosis or suspected diagnosis of any of these diseases in animals must be reported promptly to the Iowa department of agriculture and land stewardship by the veterinarian making the diagnosis or suspected diagnosis:

64.1(1) *Multiple species diseases.*

- Anthrax
- Aujeszky's disease
- Bluetongue
- Brucellosis (*Brucella abortus*)
- Brucellosis (*Brucella melitensis*)
- Brucellosis (*Brucella suis*)
- Crimean Congo haemorrhagic fever
- Echinococcosis/hydatidosis
- Epizootic haemorrhagic disease
- Equine encephalomyelitis (Eastern)
- Foot and mouth disease
- Heartwater
- Japanese encephalitis
- Leptospirosis
- New world screwworm (*Cochliomyia hominivorax*)
- Old world screwworm (*Chrysomya bezziana*)
- Paratuberculosis
- Q fever
- Rabies
- Rift Valley fever
- Rinderpest
- Surra (*Trypanosoma evansi*)
- Trichinellosis
- Tularemia
- Vesicular stomatitis
- West Nile fever

64.1(2) *Cattle diseases.*

- Bovine anaplasmosis
- Bovine babesiosis
- Bovine genital campylobacteriosis
- Bovine spongiform encephalopathy
- Bovine tuberculosis
- Bovine viral diarrhoea
- Contagious bovine pleuropneumonia
- Enzootic bovine leukosis

- Haemorrhagic septicaemia
- Infectious bovine rhinotracheitis/infectious pustular vulvovaginitis
- Lumpy skin disease
- Theileriosis
- Trichomonosis
- Trypanosomosis (tsetse-transmitted)

64.1(3) *Swine diseases.*

- African swine fever
- Classical swine fever
- Nipah virus encephalitis
- Porcine cysticercosis
- Porcine reproductive and respiratory syndrome
- Swine vesicular disease
- Transmissible gastroenteritis

64.1(4) *Sheep and goat diseases.*

- Caprine arthritis/encephalitis
- Contagious agalactia
- Contagious caprine pleuropneumonia
- Enzootic abortion of ewes (ovine chlamydiosis)
- Maedi-visna
- Nairobi sheep disease
- Ovine epididymitis (*Brucella ovis*)
- Peste des petits ruminants
- Salmonellosis (*S. abortusovis*)
- Scrapie
- Sheep pox and goat pox

64.1(5) *Equine diseases.*

- African horse sickness
- Contagious equine metritis
- Dourine
- Equine encephalomyelitis (Western)
- Equine infectious anaemia
- Equine influenza
- Equine piroplasmosis
- Equine rhinopneumonitis
- Equine viral arteritis
- Glanders
- Venezuelan equine encephalomyelitis

64.1(6) *Avian diseases.*

- Avian chlamydiosis
- Avian infectious bronchitis
- Avian infectious laryngotracheitis
- Avian mycoplasmosis (*M. gallisepticum*)
- Avian mycoplasmosis (*M. synoviae*)
- Duck virus hepatitis
- Fowl cholera
- Fowl typhoid
- Highly pathogenic avian influenza and low pathogenic avian influenza in poultry
- Infectious bursal disease (Gumboro disease)
- Marek's disease
- Newcastle disease
- Pullorum disease

- Turkey rhinotracheitis

64.1(7) *Lagomorph diseases.*

- Myxomatosis
- Rabbit haemorrhagic disease

64.1(8) *Fish diseases.*

- Epizootic haematopoietic necrosis
- Epizootic ulcerative syndrome
- Gyrodactylosis (*Gyrodactylus salaris*)
- Infectious haematopoietic necrosis
- Infectious salmon anaemia
- Koi herpesvirus disease
- Red sea bream iridoviral disease
- Spring viraemia of carp
- Viral haemorrhagic septicaemia

64.1(9) *Mollusc diseases.*

- Infection with abalone herpes-like virus
- Infection with *Bonamia exitiosa*
- Infection with *Bonamia ostreae*
- Infection with *Marteilia refringens*
- Infection with *Perkinsus marinus*
- Infection with *Perkinsus olseni*
- Infection with *Xenohalotis californiensis*

64.1(10) *Crustacean diseases.*

- Crayfish plague (*Aphanomyces astaci*)
- Infectious hypodermal and haematopoietic necrosis
- Infectious myonecrosis
- Taura syndrome
- White spot disease
- White tail disease
- Yellowhead disease

64.1(11) *Amphibian diseases.*

- Infection with *Batrachochytrium dendrobatidis*
- Infection with ranavirus

64.1(12) *Other diseases.*

- Camel pox
- Chronic wasting disease
- Leishmaniosis

Reporting is required for any case or suspicious case of an animal having any disease that may be caused by bioterrorism, epidemic or pandemic disease, or novel or highly fatal infectious agents or biological toxins and that might pose a substantial risk of a significant number of animal fatalities, incidents of acute short-term illness in animals, or incidents of permanent or long-term disability in animals.

This rule is intended to implement Iowa Code sections 163.1, 163.2, 189A.12, 189A.13 and 197.5. [ARC 9102B, IAB 9/22/10, effective 9/1/10]

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effective 9/1/10]

21—64.2(163) Disease prevention and suppression. Whenever the chief of division of animal industry shall have knowledge of an outbreak of any contagious, infectious or communicable disease among domestic animals in the state, the chief of the division of animal industry shall take such action as necessary for the prevention and suppression of such disease, including establishment, enforcement and maintenance of quarantines. The chief of the division of animal industry is authorized and empowered to obtain assistance of any peace officer.

This rule is intended to implement Iowa Code sections 163.1 and 163.10.

21—64.3(163) Duties of township trustees and health board. Whenever notice is given to the trustees of a township or to a local board of health that animals are suspected of being affected with or having been exposed to any contagious, infectious or communicable disease, they may impose such restrictions as deemed necessary to prevent the spread of the disease. It shall be the duty of such township trustees or local boards to immediately notify the chief of division of animal industry.

This rule is intended to implement Iowa Code section 163.17.

21—64.4(163) “Exposed” defined. An animal must be considered as “exposed” when it has stood in a stable with, or been in contact with, any animal known to be affected with a contagious, infectious or transmissible disease; or if placed in a stable, yard or other enclosure where such diseased animal or animals have been kept unless such stable, yard or other enclosure has been thoroughly cleaned and disinfected after containing animals so affected.

This rule is intended to implement Iowa Code section 163.1.

21—64.5(163) Sale of vaccine. No attenuated or live culture vaccine or virus shall be sold or offered for sale at retail except to a licensed veterinarian of this state, nor shall it be administered to any livestock or poultry except by a licensed veterinarian of the state of Iowa. This does not apply to the sale of and administration of virulent hog-cholera virus when sold to and administered by valid permit holders for its use on hogs owned by themselves on their own premises.

This rule is intended to implement Iowa Code section 163.1.

21—64.6(163) “Quarantine” defined. The term “quarantine” shall be construed to mean the perfect isolation of all diseased or suspected animals from contact with other animals as well as the exclusion of other animals from yards, stables, enclosures or grounds where suspected or diseased animals are or have been kept.

This rule is intended to implement Iowa Code section 163.1.

21—64.7(163) Chiefs of Iowa and U.S. animal industries to cooperate. The department of agriculture and land stewardship hereby authorizes and directs the chief of division of animal industry to cooperate with the bureau of animal industry, United States Department of Agriculture, in all regulations for the prevention, control and eradication of contagious and infectious diseases among domestic animals in the state of Iowa.

This rule is intended to implement Iowa Code section 163.1.

21—64.8(163) Animal blood sample collection. Any animal slaughtered in Iowa is subject to having blood samples taken in order to determine whether the animal is infected with an infectious or contagious disease. Upon written notification from the department or from the United States Department of Agriculture, the management of a slaughter facility shall provide for or permit the collection of blood samples for testing from any animal confined at or being slaughtered at such a facility.

If the department or the United States Department of Agriculture chooses to place government employees or private contractors in the facility for the purpose of collecting the blood samples, neither

the facility nor the management of the facility shall charge a fee for providing such access. In addition, the slaughter facility shall provide blood collectors access to facilities routinely available to plant employees such as rest rooms, lockers, break rooms, lunchrooms, and storage facilities to facilitate blood collection in the same manner and on the same terms as the facility provides access to the facility to meat inspectors employed by the department or the Food Safety Inspection Service of the United States Department of Agriculture.

21—64.9 Reserved.

[July 1952 IDR; File 6/3/55; Amended 3/12/62]

[Filed 12/21/76, Notice 11/3/76—published 1/12/77, effective 2/17/77]

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[Filed emergency 1/28/98—published 2/25/98, effective 1/28/98]

GLANDERS AND FARCY CONTROL

21—64.10(163) Preventing spread of glanders. No person owning or having the care or custody of any animal affected with glanders or farcy, or which there is a reason to believe is affected with said disease, shall lead, drive or permit such animal to go on or over any public grounds, unenclosed lands, street, road, public highway, lane or alley; or permit such animal to drink at any public watering trough, pail or spring, or keep such diseased animal in any enclosure in or from which such diseased animal may come in contact with, or in proximity to, any animal not affected with such disease.

This rule is intended to implement Iowa Code section 163.20.

21—64.11(163) Disposal of diseased animal. Whenever any animal affected with glanders dies or is destroyed the carcass of such animal shall be burned immediately.

As glanders is transmissible to human beings great care must be exercised in handling diseased animals or carcasses.

This rule is intended to implement Iowa Code section 163.1.

21—64.12(163) Glanders quarantine. It shall be the duty of the chief of division of animal industry to maintain quarantine on all animals affected with glanders until such animals have been destroyed by consent of the owner or otherwise, and carcasses disposed of in accordance with 64.11(163) and the premises where the same have been kept thoroughly cleaned and disinfected.

This rule is intended to implement Iowa Code section 163.2.

21—64.13(163) Tests for glanders and farcy. In suspected cases of glanders and farcy the most efficient field test is the intrapalpebral mallein test, and as valuable aids to diagnosis the mallein Strass' agglutination and precipitation tests shall be recognized.

This rule is intended to implement Iowa Code section 163.1.

21—64.14 Reserved.

[Filed 6/3/55]

[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

BLACKLEG CONTROL

21—64.15(163) Blackleg. Upon the appearance of an outbreak of blackleg on any premises all calves and yearlings on the premises should be promptly immunized. All carcasses of animals dead of blackleg must be burned intact without removal of the hide. Such carcasses may be disposed of by removal within 24 hours by the operator of a regularly licensed rendering plant. In the event that the owner of any animal

dead from blackleg neglects or refuses to make such disposition of the carcass or carcasses as indicated above, then in such cases the disposal shall be handled in accordance with 61.33(163).

This rule is intended to implement Iowa Code sections 167.18 and 163.2.

21—64.16 Reserved.

[Filed 6/3/55]

[Filed 1/13/84, Notice 12/7/83—published 2/1/84, effective 3/7/84]

[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

DEPARTMENT NOTIFICATION OF DISEASES

21—64.17(163) Notification of chief of animal industry. It shall be the duty of any city or local board of health or township trustees, whenever notice is given of animals being affected with rabies, glanders, scabies, hog cholera or any contagious or infectious disease or having been exposed to the same, to promptly notify the chief of division of animal industry.

This rule is intended to implement Iowa Code section 163.17.

21—64.18 to 64.22 Reserved.

[Filed 6/3/55]

[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

RABIES CONTROL

21—64.23(163) Rabies—exposed animals. Whenever rabies is known to exist in any community it shall be the duty of all owners of dogs or other exposed animals to immediately confine such dogs or animals securely to prevent them from spreading the infection should they develop the disease.

This rule is intended to implement Iowa Code section 351.39.

21—64.24(163) Rabies quarantine. When quarantine is established in any community on account of the existence of rabies all dogs not confined or muzzled shall be promptly destroyed.

This rule is intended to implement Iowa Code section 351.40.

21—64.25(351) Control and prevention of rabies.

64.25(1) *Antirabies vaccine.*

a. Vaccines and immunization procedures recommended in the Compendium of Animal Rabies Vaccines prepared by the National Association of Public Health Veterinarians, Inc. are approved by the Iowa department of agriculture and land stewardship.

b. Reserved.

64.25(2) *Tag and certificate.*

a. The veterinarian shall issue a tag with the numerical number thereon and the certificate of vaccination shall designate the tag number.

b. Each rabies vaccination certificate issued by the veterinarian must be an Official Rabies Vaccination Certificate approved by the Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 351.35.

21—64.26 to 64.29 Reserved.

[Filed 6/3/55, amended 7/13/65, 3/21/67]

[Filed 4/17/87, Notice 3/11/87—published 5/6/87, effective 6/10/87]

[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

SCABIES OR MANGE CONTROL

21—64.30(163) Scabies or mange quarantine. Whenever the state veterinarian shall have knowledge of any horses, cattle, sheep or swine affected with scabies or mange, owners of any horses, cattle, sheep or swine affected shall medicate the animals at intervals the state veterinarian deems necessary with a method approved by the state veterinarian.

This rule is intended to implement Iowa Code section 166A.8.
[ARC 9102B, IAB 9/22/10, effective 9/1/10]

21—64.31 Reserved.

[Filed 6/3/55]

[Filed 1/13/84, Notice 12/7/83—published 2/1/84, effective 3/7/84]

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[Filed Emergency After Notice ARC 9102B (Notice ARC 8976B, IAB 7/28/10), IAB 9/22/10,
effective 9/1/10]

DISEASE CONTROL AT FAIRS AND EXHIBITS

21—64.32(163) State fairgrounds—disinfection of livestock quarters. It shall be the duty of the chief of division of animal industry to supervise the disinfection of all buildings, stalls and pens at the state fairgrounds just prior to the opening of such fair and to supervise the disinfecting daily of hog pens and such other enclosures.

This rule is intended to implement Iowa Code section 163.1.

21—64.33(163) County fairs—disinfection of livestock quarters. It shall be the duty of all secretaries of all county fairs or exhibitions of livestock in the state of Iowa, excepting the Iowa state fair, to supervise the disinfecting of all buildings, stalls and pens prior to the opening of such county fair or exhibition of livestock and to disinfect hog pens and all such enclosures daily during such fairs and exhibitions.

This rule is intended to implement Iowa Code section 163.1.

21—64.34(163) Health requirements for exhibition of livestock, poultry and birds at the state fair, district shows and exhibitions.

64.34(1) General requirements. All animals, poultry and birds intended for any exhibition will be considered under quarantine and not eligible for showing until the owner or agent presents an official Certificate of Veterinary Inspection. The certificate must be issued by an accredited veterinarian within 30 days (14 days for sheep) prior to the date of entry; and must indicate that the veterinarian has inspected the animals, poultry or birds and any nurse stock that accompany them, and that they are apparently free from symptoms of any infectious disease (including warts, ringworm, footrot, draining abscesses and pinkeye) or any communicable disease. Individual Certificates of Veterinary Inspection will not be required in certain classes, if the division superintendent for the exhibition has made prior arrangements with the official fair veterinarian to have all animals and birds inspected on arrival.

64.34(2) Breeding cattle.

a. Tuberculosis. Cattle originating from a USDA accredited-free state or zone may be exhibited without other testing requirements when accompanied by a Certificate of Veterinary Inspection that lists individual official identification. Cattle from a herd or area under quarantine for tuberculosis may not be exhibited. Cattle from a state or zone which is not a USDA accredited-free state or zone must meet the following requirements:

- (1) Have had an individual animal test conducted within 60 days of the exhibition; or
- (2) Originate from a tuberculosis accredited-free herd, with the accredited herd number and date of last test listed on the Certificate of Veterinary Inspection; and
- (3) Have been issued a preentry permit from the state veterinarian's office.

b. Brucellosis.

(1) Native Iowa cattle originating from a herd not under quarantine may be exhibited when accompanied by a Certificate of Veterinary Inspection that lists individual official identification.

(2) Cattle originating outside the state must meet one of the following requirements:

1. Originate from brucellosis class “free” states, accompanied by a Certificate of Veterinary Inspection that lists individual official identification; or

2. Be beef heifers under 24 months of age and dairy heifers under 20 months of age which are official brucellosis vaccinates, accompanied by a Certificate of Veterinary Inspection that lists the official calfhood vaccination tattoo and individual official identification; or

3. Be animals of any age that originate from a herd not under quarantine, accompanied by a Certificate of Veterinary Inspection that lists a report of a negative brucellosis test conducted within 30 days prior to opening date of exhibition and individual official identification; or

4. Originate from a certified brucellosis-free herd, accompanied by a Certificate of Veterinary Inspection that lists individual official identification, herd number, and date of last test; or

5. Be calves under six months of age, accompanied by a Certificate of Veterinary Inspection that lists individual official identification.

(3) All brucellosis tests must have been confirmed by a state-federal laboratory. All nurse cows which accompany calves to be exhibited must meet the health requirements set forth in 64.34(2) “b.”

(4) All cattle originating from states not classified as “free” for brucellosis must have been issued a preentry permit from the state veterinarian’s office.

64.34(3) Market beef cattle. Steers and beef-type heifers exhibited in market classes must be accompanied by a Certificate of Veterinary Inspection, showing individual official identification for each animal, and must originate from a herd not under quarantine.

64.34(4) Swine. All swine must originate from a herd or area not under quarantine and must be individually identified on a Certificate of Veterinary Inspection. Plastic tags issued by 4-H officials may be substituted for an official metal test tag, when an additional identification (ear notch) is also recorded on the test chart and Certificate of Veterinary Inspection. All identification is to be recorded on the pseudorabies test chart and the Certificate of Veterinary Inspection.

a. Brucellosis. All breeding swine six months of age and older must:

(1) Originate from a brucellosis class “free” state; or

(2) Originate from a brucellosis validated herd with herd certification number and date of last test listed on the Certificate of Veterinary Inspection; or

(3) Have a negative brucellosis test conducted within 60 days prior to show and confirmed by a state-federal laboratory.

b. Aujeszky’s Disease (pseudorabies)—all swine.

(1) Native Iowa swine. Exhibitors of native Iowa swine that originate from a Stage IV or lower-status county must present a test record and Certificate of Veterinary Inspection that indicate that each swine has had a negative test for pseudorabies within 30 days prior to the show (individual show regulations may have more restrictive time restrictions), regardless of the status of the herd, and that show individual official identification. Exhibitors of native Iowa swine that originate from a Stage V county must present a Certificate of Veterinary Inspection that lists individual official identification. No pseudorabies testing requirements will be necessary for native Iowa swine that originate from Stage V counties. Electronic identification will not be considered official identification for exhibition purposes.

(2) Swine originating outside Iowa. All exhibitors must present a test record and Certificate of Veterinary Inspection that indicate that each swine has had a negative test for pseudorabies within 30 days prior to the show (individual show regulations may have more restrictive time restrictions), regardless of the status of the herd, and that show individual official identification. Electronic identification will not be considered official identification for exhibition purposes.

64.34(5) Sheep and goats. All sheep and goats must be individually identified and a record of the identification noted on the Certificate of Veterinary Inspection and must originate from a herd or flock not under quarantine. Any evidence of club lamb fungus, draining abscesses, ringworm, footrot, sore mouth or any other contagious disease shall eliminate the animal from the show. The Certificate of Veterinary

Inspection for sheep shall require clinical inspection by an accredited veterinarian within 14 days (30 days for goats) prior to date of entry to exhibition grounds.

a. Sheep and goats—scrapie. All sexually intact sheep must be identified with an individual scrapie flock of origin identification tag, and this number must be listed on the Certificate of Veterinary Inspection.

All sexually intact goats must be identified with an individual scrapie flock of origin identification tag or by an official registered tattoo, and one of these numbers must be listed on the Certificate of Veterinary Inspection. The Certificate of Veterinary Inspection must also include a statement certifying the herd's participation in the scrapie program.

b. Goats—brucellosis and tuberculosis. Goats must be from a state certified brucellosis-free herd or have a record of a negative brucellosis test performed within 90 days of the exhibition. In addition, they must originate from a herd having a negative tuberculosis test within the last 12 months or have a record of a negative tuberculosis test performed within 90 days of exhibition.

64.34(6) Horses and mules. Native Iowa horses and mules can be exhibited when accompanied by an individual Certificate of Veterinary Inspection listing individual identification or a description of the individual animals.

All equine, six months of age or older, originating from outside the state shall be accompanied by an official Certificate of Veterinary Inspection listing individual identification or a description of the individual animals; and indicating that each animal in the shipment has had a negative official equine infectious anemia test within 12 months of importation. The testing laboratory, laboratory accession number and date of test must appear on the certificate.

64.34(7) Poultry and birds. All poultry exhibited must come from U.S. pullorum-typhoid clean or equivalent flocks; or have had a negative pullorum-typhoid test performed within 90 days of the exhibition by an authorized tester. An approved certificate verifying this status shall accompany the exhibit.

64.34(8) Dogs and cats. Dogs and cats exhibited must have current, official rabies vaccination certificates.

64.34(9) Removal from fair or exhibition. The veterinary inspector in charge shall order that any livestock, poultry or birds found to be infected with any contagious or infectious disease be removed from the fair or exhibition.

64.34(10) Cervidae. For the purposes of this subrule, "Cervidae" means all animals belonging to the Cervidae family, and "CWD susceptible Cervidae" means whitetail deer, blacktail deer, mule deer, red deer, and elk.

a. Native Iowa Cervidae. Native Iowa Cervidae from a herd not under quarantine may be exhibited without additional testing for brucellosis or tuberculosis. CWD susceptible Cervidae intended for exhibition must originate from a herd that has completed at least one year in the CWD monitoring program. Native Iowa Cervidae may be exhibited without other testing requirements when the Cervidae are accompanied by a Certificate of Veterinary Inspection that lists individual official identification and the monitored CWD cervid herd number or certified CWD herd number for CWD susceptible Cervidae, including the status level and anniversary date, and contains the following statement:

"All Cervidae listed on this certificate have been part of the herd of origin for at least one year or were natural additions to the herd. There has been no diagnosis, sign, or epidemiological evidence of chronic wasting disease in this herd for the past year."

b. Cervidae originating outside Iowa. Cervidae that originate outside Iowa must obtain an entry permit from the state veterinarian's office prior to import into Iowa. Cervidae that originate outside Iowa which are six months of age or older must originate from a herd not under quarantine and have been tested negative for Tuberculosis (TB) by the Single Cervical Tuberculin (SCT) test (Cervidae) within 90 days of exhibition, or originate from an Accredited Herd (Cervidae), or originate from a Qualified Herd (Cervidae), with test dates shown on the Certificate of Veterinary Inspection. Herd status and SCT test are according to USDA Tuberculosis Eradication in Cervidae Uniform Methods and Rules, effective January 22, 1999.

Cervidae that originate outside Iowa which are six months of age or older must also have been tested negative for brucellosis within 90 days of exhibition, or originate from a certified brucellosis-free cervid herd, or a cervid class-free status state (brucellosis). This negative test result must be determined by brucellosis tests approved for cattle and bison, and the test must have been conducted in a cooperative state-federal laboratory.

(1) All CWD susceptible Cervidae must have originated from a monitored or certified CWD cervid herd in which the animals have been kept for at least one year or to which the animals were natural additions. The originating herd must have achieved a CWD status equal to completion of three years in an approved CWD monitoring program, and the CWD herd number and enrollment date must be listed on the Certificate of Veterinary Inspection. Cervidae originating from a herd with a diagnosis, sign, or epidemiological evidence of CWD or from an area under quarantine for chronic wasting disease shall not be exhibited. The following statement must appear on the Certificate of Veterinary Inspection:

“All Cervidae listed on this certificate originate from a chronic wasting disease monitored or certified herd in which these animals have been kept for at least one year or to which the animals were natural additions. There has been no diagnosis, sign, or epidemiological evidence of chronic wasting disease in this herd for the past year.”

(2) Other Cervidae. For all other Cervidae, the following statement must appear on the Certificate of Veterinary Inspection:

“All Cervidae listed on this certificate have been part of the herd of origin for at least one year or were natural additions to this herd. There has been no diagnosis, sign, or epidemiological evidence of chronic wasting disease in this herd for the past year.”

This rule is intended to implement Iowa Code sections 163.1 and 163.14.

[ARC 9942B, IAB 12/28/11, effective 1/1/12]

21—64.35(163) Health requirements for exhibition of livestock, poultry and birds at exhibitions. Each county fair shall have an official veterinarian who will inspect all livestock, poultry and birds when they are unloaded or shortly thereafter. No Certificate of Veterinary Inspection will be required on livestock, poultry and birds exhibited at a county 4-H or FFA show. Quarantined animals or animals from quarantined herds cannot be exhibited. Evidence of warts, ringworm, footrot, pinkeye, draining abscesses or any other contagious or infectious condition will eliminate the animal from the show.

64.35(1) Swine exhibition requirements. “Swine exhibition” means an exhibit, demonstration, show, or competition involving an event on the state fairgrounds, a county fair, or other exhibition event. The sponsor of the exhibition must retain an Iowa licensed veterinarian to supervise the health of the swine at the exhibition location. The sponsor must electronically file the approved registration form and obtain approval from the state veterinarian at least 30 days before the event. The registration form includes the name of the exhibition and the address and telephone number of its location; the name, address and telephone number of the veterinarian; and the date of the planned exhibition. Sales of swine will not be allowed unless the event has been registered and received approval from the state veterinarian 30 days prior to the event.

64.35(2) Swine exhibition report required. The sponsor of the swine exhibition shall electronically submit to the department the approved report form within five business days after the conclusion of the exhibition. The form includes the name of the exhibition and the address and telephone number of its location; the name, address and telephone number of the veterinarian; the date that the exhibition occurred; the name, address and telephone number of the owner of the swine; and the address and telephone number of the premises from which the swine was moved after the exhibition if such premises is a different premises.

64.35(3) Dogs and cats. All dogs and cats exhibited in county exhibitions must have a current, official rabies certification.

64.35(4) Poultry and birds. Except as provided in this subrule, all poultry exhibited must come from U.S. pullorum-typhoid clean or equivalent flocks; or have had a negative pullorum-typhoid test

performed within 90 days of exhibition by an authorized tester. An approved certificate verifying this status shall accompany the exhibit.

However, no testing for salmonella pullorum-typhoid shall be required for “market classes” of poultry, if the poultry are consigned to a slaughter establishment directly from the exhibition. Poultry exhibited in these “market classes” shall be maintained separate and apart from poultry not exempted from the testing requirements. Separate and apart shall include both of the following: holding poultry so that neither poultry nor organic material originating from the poultry has physical contact with other poultry; and poultry exhibited in “market classes” shall be maintained in enclosures at least ten feet apart or separated by an eight-foot high solid partition from all other poultry. Poultry exhibited in “market classes” shall be so declared at the time of entry into this exhibition or before.

All enclosures maintaining poultry shall be thoroughly cleaned and disinfected.

64.35(5) *Sheep and goats.* All sexually intact sheep must have an individual scrapie flock of origin identification tag. All sexually intact goats must have an individual scrapie flock of origin identification tag or an official registered tattoo.

64.35(6) *Cervidae.* Native Iowa Cervidae from a herd not under quarantine may be exhibited without additional testing for brucellosis or tuberculosis. CWD susceptible Cervidae intended for exhibition must originate from a herd that has completed at least one year in the CWD monitoring program. Native Iowa Cervidae may be exhibited without other testing requirements when the Cervidae are accompanied by a Certificate of Veterinary Inspection that lists individual official identification and the monitored CWD cervid herd number or certified CWD herd number for CWD susceptible Cervidae, including the status level and anniversary date, and contains the following statement:

“All Cervidae listed on this certificate have been part of the herd of origin for at least one year or were natural additions to the herd. There has been no diagnosis, sign, or epidemiological evidence of chronic wasting disease in this herd for the past year.”

64.35(7) *Show veterinarian.* The decision of the show veterinarian shall be final.

This rule is intended to implement Iowa Code sections 163.1 and 163.14.

[ARC 9942B, IAB 12/28/11, effective 1/1/12]

21—64.36 and 64.37 Reserved.

[Filed 6/3/55]

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DISEASE CONTROL BY CONVEYANCES

21—64.38(163) Transportation companies—disinfecting livestock quarters. All railroad and transportation companies are hereby required to provide for proper drainage of all stockyards, pens, alleyways and chutes, and to clean and disinfect the same between April 15 and May 15 of each year and at such other times as may be deemed necessary. All expense incurred for the disinfecting and supervision of same must be paid by the railroad company. The chief of the division of animal industry shall enforce this rule.

This rule is intended to implement Iowa Code section 163.1.

21—64.39(163) Livestock vehicles—disinfection. It is hereby ordered by the state of Iowa, secretary of agriculture, that all cars or vehicles that have been used for conveying any animal or animals that have been found to have suffered or are suffering from any contagious or infectious diseases must be cleaned and disinfected thoroughly before leaving the yards where such animal or animals have been unloaded within the state of Iowa.

This rule is intended to implement Iowa Code section 163.1.

21—64.40 Reserved.

[Filed 6/3/55]

[Filed emergency 7/8/88 after Notice of 6/1/88—published 7/27/88, effective 7/8/88]

INTRASTATE MOVEMENT OF LIVESTOCK

21—64.41(163) General. All places where livestock is assembled, either bought or sold for purposes other than immediate slaughter, whether by private sale or public auction, when not under federal supervision must be under state supervision.

64.41(1) The management of all livestock auction markets shall make application for, and obtain a permit from the department to conduct such sales.

64.41(2) Before movement, the livestock shall comply with requirements as set forth below.

64.41(3) Livestock imported for resale shall meet all health requirements governing their admission into the state as set forth in 21—Chapter 65.

This rule is intended to implement Iowa Code sections 163.1, 163.11, and 163.14.

21—64.42(163) Veterinary inspection.

64.42(1) All livestock markets shall be under the general supervision of the Chief, Bureau of Animal Industry, Iowa Department of Agriculture and Land Stewardship, Des Moines, Iowa 50319, and the direct supervision of the approved veterinary inspector. Markets shall pay inspection fees directly to the veterinary inspector.

64.42(2) The veterinary inspector shall:

- a.* Examine all livestock moving through the market.
- b.* Prohibit the sale of any animal deemed to be diseased.
- c.* Issue quarantines when required, and
- d.* Supervise the cleaning and disinfection of yards following sales.

This rule is intended to implement Iowa Code section 163.1.

21—64.43(163) Swine.

64.43(1) *Brucellosis.* All breeding swine four months of age or over moving through a livestock market or offered for sale or sold by the owner by private treaty must:

- a.* Originate from a validated herd, or from a validated brucellosis-free state according to Title 9 CFR as amended effective May 23, 1994, and published in the Federal Register, Vol. 59, No. 77, April 21, 1994, or

b. Be proved negative to a brucellosis test conducted within 60 days prior to sale or service and originate from a herd not under quarantine.

All breeding swine showing a positive reaction to a brucellosis test conducted at a livestock market shall be tagged in the left ear with a reactor tag and moved direct to slaughter on permit. The herd of origin shall be placed under quarantine for immediate test. Such quarantine to remain in effect until a complete negative herd test is conducted.

The negative animals from a reactor group disclosed at an auction market can return to the farm of origin under strict quarantine to be tested no sooner than 30 days nor later than 60 days from the date of test.

64.43(2) Reserved.

This rule is intended to implement Iowa Code sections 163A.1 and 163A.3.

21—64.44(163) Farm deer. Rescinded IAB 11/26/03, effective 12/31/03.

21—64.45 and **64.46** Reserved.

[Filed 7/14/64; amended 1/12/66, 5/14/68, 7/9/68, 4/18/73]

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BRUCELLOSIS

21—64.47(163) Definitions as used in these rules.

64.47(1) “*Department*” means the Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa.

64.47(2) “*Federal Office*” means the Animal, Plant and Health Inspection Service, United States Department of Agriculture, Federal Building, Des Moines, Iowa 50309.

64.47(3) “*Brucellosis*” means the disease of brucellosis in animals.

64.47(4) “*Brucellosis test*” means the blood serum test for brucellosis, applied in accordance with a technique approved by the department.

64.47(5) “*B.R.T.*” means a brucellosis ring test as applied to milk and cream, and used as a presumptive test for locating possible brucellosis infected herds according to a technique approved by the department.

64.47(6) “*Brucellosis test classification*” means the designation of animals tested by the methods of card test or rivanol or any other method approved jointly by the state and federal departments of agriculture.

64.47(7) “*Veterinarian*” means a graduate of an approved veterinary school who is licensed and registered to practice veterinary medicine in this state.

64.47(8) “*Designated animals*” means only the following named bovine animals: beef cattle, dairy cattle, American bison or “buffalo,” and their hybrids.

This rule is intended to implement Iowa Code section 163A.9.

21—64.48 Reserved.

21—64.49(163) Certified brucellosis-free herd. In order to qualify a herd of cattle as brucellosis-free and receive a certificate evidencing same, the owner thereof shall comply with the following requirements:

64.49(1) *Certified brucellosis-free herd.* A herd may qualify for initial certification by a minimum of three consecutive negative milk ring tests (B.R.T.) conducted at not less than 90-day intervals, followed by a negative herd blood test conducted within 90 days after the last negative milk ring test; or at least two consecutive negative blood tests not less than 10 months nor more than 14 months apart. A herd may qualify for recertification by a negative blood test within 60 days of each anniversary date, and the certification period being 12 months. If recertification is not conducted within 60 days following the anniversary date, then certification requirements are the same for initial certification.

64.49(2) *Additions to certified herds.*

a. To certified herds:

- (1) From herds with equal status.
- (2) From once-tested clean herds. Calf vaccinated animals up to 30 months of age on certificate of vaccination—over 30 months if negative; or nonvaccinated animals on evidence of negative retest not less than 60 days from date of negative herd test.

b. To once-tested clean herds:

- (1) From herds with equal or superior status.
- (2) From other herds, calfhood vaccinated animals up to 30 months of age on certificate of vaccination; over 30 months, if negative; nonvaccinated animals if tested negative, then segregated and retested negative in not less than 60 days.

64.49(3) The owner or veterinarian shall make a request to the chief, division of animal industry for certification or recertification, for a brucellosis-free herd when the required tests are completed.

This rule is intended to implement Iowa Code section 164.4.

21—64.50(163) Restraining animals. To facilitate the vaccination, taking of blood sample or identifying animals as reactors, it shall be the duty of the owner to confine the animals in a suitable enclosure and to restrain the individual animal in a manner sufficient to permit the veterinarian to perform any of the services required under laws and rules of Iowa.

This rule is intended to implement Iowa Code section 164.4.

21—64.51(163) Quarantines.

64.51(1) Bovine animals classified as reactors shall be quarantined on the premises and not permitted to mingle with other cattle until disposed of for slaughter under a permit issued by the department or its authorized agent.

64.51(2) All bovine animals comprising a herd operating under control Plan A shall be quarantined when one of its members has been classified as a reactor, such quarantine to remain in effect until two consecutive negative brucellosis tests, 30 to 60 days apart, have been made. No animals of such a herd may be moved or sold except to slaughter under permit issued by the department or its authorized agent except that the department in hardship cases may permit the movement of such animals other than to slaughter with quarantines remaining in effect at the new location, together with any new animals with which they may commingle.

64.51(3) Owners of animals tested for brucellosis shall hold the entire herd on the premises until the results of the test are determined.

64.51(4) Notice of quarantine shall be delivered in writing by the department or its authorized agent to the owner or caretaker of all cattle quarantined. A report of such quarantine shall also be filed with the department as prescribed.

This rule is intended to implement Iowa Code sections 164.15 and 164.19.

21—64.52(163) Identification of bovine animals.

64.52(1) *Identification tag.* Every veterinarian, in conjunction with the testing of any bovine animal for brucellosis or the vaccination of any such animal, shall insert an identification tag of the type approved by the department in the right ear of each animal which is not so identified; provided that in the case of an animal registered with a purebred association, the registry or tattoo number assigned to the animal by such association may be used for identification in lieu of an identification tag.

64.52(2) *Official vaccinates.* An animal vaccinated with RB-51 brucella abortus vaccine must have an official identification tag in the right ear or an individual animal registration tattoo. Additionally, the animal must be tattooed in the right ear with the U.S. Registered Shield and the letter “V,” which shall be preceded by a letter “R” and followed by a number corresponding to the last digit of the year in which the animal was vaccinated.

64.52(3) *Reactor identification.* Bovine-reactor cattle eight months of age or over shall be permanently branded with a hot iron on the tailhead over the fourth to the seventh coccygeal vertebrae with the letter “B” not less than two inches nor more than three inches high and shall also be tagged in the left ear with a reactor identification tag approved by the department within 15 days of the date on which they were disclosed as reactors. This subrule shall not apply to official calfhood vaccination as defined in Iowa Code section 164.1. Such vaccinates need not be branded if they react to the brucellosis test until 30 months of age.

This rule is intended to implement Iowa Code sections 164.11 and 164.12.
[ARC 9102B, IAB 9/22/10, effective 9/1/10]

21—64.53(163) *Cleaning and disinfection.* After any disclosure of reactors to the brucellosis test and following their disposal for slaughter, the owner of such cattle shall be required to clean and disinfect all barns and premises in which said cattle have been held. Such cleaning and disinfection shall be done in accordance with instructions and with a disinfectant approved by the department.

This rule is intended to implement Iowa Code section 163.1.

21—64.54(163) *Disposal of reactors.*

64.54(1) Reactor cattle disclosed in herds operating under Plan A shall be tagged and branded within 15 days of the date the blood samples were taken. In accordance with Iowa law, an additional 30 days will be allowed for slaughter.

64.54(2) All reactors shall be disposed of for slaughter only in plants operating under federal meat inspection or slaughtering establishment approved by the department and must be accompanied by a shipping permit ADE 1-27 issued by an accredited veterinarian.

64.54(3) No cattle shall be disposed of through public sales or sales barns.

This rule is intended to implement Iowa Code section 164.17.

21—64.55(163) *Brucellosis tests and reports.*

64.55(1) All brucellosis tests conducted at state-federal expense must be performed at a state-federal laboratory as determined by the department.

64.55(2) The department shall approve a veterinarian as eligible to conduct brucellosis tests upon successful completion of a course of training and instruction provided by the department. The department shall specify the standards for maintaining such approval.

64.55(3) All brucellosis tests conducted by a veterinarian must be reported to the department, on forms prescribed, within seven days following completion of such tests. A copy of such tests shall also be given to the herd owner by the veterinarian.

64.55(4) Reports of vaccination shall be rendered by the veterinarian within 30 days in compliance with the regulation. It is from the information on these reports that the owner of the cattle will receive recognition as being under official supervision.

This rule is intended to implement Iowa Code section 164.10.
[ARC 9102B, IAB 9/22/10, effective 9/1/10]

21—64.56(163) *Suspect animals designated as reactors.*

64.56(1) A nonvaccinated animal classified as a suspect on the brucellosis test may be reclassified as a reactor by the veterinarian obtaining the blood sample provided that such an animal is known to have aborted and is from a herd containing reactors.

64.56(2) Animals so designated in 64.38(1) and 64.38(2) will be eligible for indemnity in accordance with the laws and rules governing same.

This rule is intended to implement Iowa Code section 163.1.

21—64.57(163) Indemnity not allowed.

64.57(1) No indemnity shall be paid unless the test was previously authorized by proper state or federal authority.

64.57(2) No indemnity may be paid on an animal which was vaccinated when it was more than eight months of age.

64.57(3) Rescinded.

64.57(4) No indemnity may be paid as a result of a test of an official vaccinate less than 30 months of age.

64.57(5) No indemnity may be paid upon reactors unless they are tagged, branded and slaughtered according to the state and federal regulations.

64.57(6) No indemnity may be paid upon cattle entering the state of Iowa which have not met the requirements for entry as breeding or dairy cattle.

64.57(7) No indemnity can be paid on reactors owned by the state or county.

64.57(8) No indemnity may be paid on unregistered reactor bulls, steers or spayed heifers.

64.57(9) No indemnity will be paid for brucellosis reactors when known reactors have been held on the premises for more than 30 days from the date on which they were tagged and branded.

64.57(10) No indemnity will be paid when infected premises have not been cleaned and disinfected to the satisfaction of the department in such a manner as to prevent the further spread of the disease.

64.57(11) No indemnity will be paid if the claimant has failed to comply with any of the requirements of these rules.

64.57(12) No indemnity will be paid on brucellosis reactors disclosed in a herd unless a state-federal cooperative agreement has been signed by the owner prior to conducting the brucellosis test.

64.57(13) No indemnity will be allowed unless all animals comprising the herd, both beef and dairy type, have been subjected to a brucellosis test conducted at the state-federal laboratory.

64.57(14) No indemnity will be paid on any reactors unless they are slaughtered in a plant operating under federal meat inspection and accompanied by a shipping permit ADE 1-27 issued by an accredited veterinarian.

This rule is intended to implement Iowa Code section 163.15.

21—64.58(163) Area testing.

64.58(1) Counties shall be tested in the order that valid petitions are received unless the department shall decide that it is not expedient to make tests in that order.

64.58(2) All provisions of the rules as promulgated under authority of Iowa Code section 164.2 are also in effect for counties designated as under area testing.

64.58(3) An area may be declared modified certified brucellosis-free by the application of two milk tests not less than six months apart, together with a blood test of all milk reacting herds and such other herds as are not included in the milk test. The number of reactors (exclusive of officially calf vaccinated animals under 30 months of age) must not exceed 1 percent of the cattle and the herd infection must not exceed 5 percent. Infected herds shall be quarantined until they have passed at least two consecutive blood tests not less than 60 days apart.

64.58(4) If testing as outlined in 64.58(3) above reveals an animal infection rate of more than 1 percent, but not over 2 percent and a retest of the infected herds applied within 120 days discloses not more than 1 percent animal infection in not over 5 percent of the herds, the area may then be certified.

64.58(5) If the test of an area as outlined under 64.58(3) results in more than 2 percent reactors, or if a retest of infected herds as under 64.58(3) does not qualify the area for certification, it shall be necessary to make a complete area retest.

64.58(6) Recertification. Areas may be recertified with the application of semiannual milk tests, follow-up blood tests of milk reacting herds and blood tests at three-year intervals on 20 percent of all herds not included in the milk test, if the incidence of infection does not exceed 1 percent of the cattle and 5 percent of the herds under test.

64.58(7) If testing as outlined under 64.58(6) reveals an animal infection rate of more than 1 percent, but not over 2 percent and a retest of the infected herds applied within 120 days discloses not more than 1 percent animal infection in not over 5 percent of the herds, the area may then be certified.

64.58(8) Any area not qualifying for recertification under the provisions of 64.58(7) shall be required to reestablish its certified status through testing procedures as outlined under 64.58(3).

64.58(9) The report of suspicious ring test of any herd shall be cause for a brucellosis test to be made.

64.58(10) The report of negative ring test will exempt a herd from brucellosis test unless such herd is due a test because of previous infection.

64.58(11) Milk producing herds missed on more than one regularly scheduled ring test will be required to have a brucellosis test made.

This rule is intended to implement Iowa Code sections 163.1, 164.2, 164.4, and 165.2.

21—64.59 to 64.62 Reserved.

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BOVINE BRUCELLOSIS

21—64.63(164) Back tagging in bovine brucellosis control.

64.63(1) All bovine animals two years of age and older received for sale or shipment to a slaughtering establishment shall be identified with a back tag issued by the department. The back tag will be affixed to the animal as directed by the department.

64.63(2) It shall be the duty of every livestock trucker, when delivering to an out-of-state market, and every livestock dealer, livestock market operator, stockyards operator and slaughtering establishment to identify all such bovine animals not bearing a back tag at the time of receiving possession or control of such animals. A livestock trucker may be exempted from this requirement if the animals are identified as to the farm of origin when delivered to a livestock market, stockyards or slaughtering establishment agreeing to accept responsibility for back tag identification.

64.63(3) Every person required to identify animals under this rule shall file reports of such identification on forms prescribed by the department. Each such report will cover all animals identified during the preceding week.

This rule is intended to implement Iowa Code section 164.30.

21—64.64(164) Fee schedule.

64.64(1) *Bleeding.* Thirty dollars per stop (herd) and five dollars per head for all cattle bled.

64.64(2) *Tagging and branding reactors.* Fifteen dollars for the first reactor and five dollars for each additional reactor.

This rule is intended to implement Iowa Code section 164.6.

[ARC 9102B, IAB 9/22/10, effective 9/1/10]

21—64.65(163) Definitions.

64.65(1) *Bleeding.* Bleeding shall mean the taking of a blood sample in a vial or tube, to be submitted to a laboratory for testing and diagnosis of diseases.

64.65(2) *Injection.* Injection shall mean the injection of tuberculin into a prescribed area of the animal as a diagnostic test for tuberculosis.

64.65(3) *Reading.* Reading shall mean the examination of the injection site to ascertain whether or not there has been a reaction. A reaction at the injection site is a positive diagnosis of tuberculosis.

64.65(4) Stop. Stop shall mean a personal visit at a particular farm for the expressed purpose of testing animals for tuberculosis or brucellosis, for reading animals for tuberculosis, or for tagging and branding animals diagnosed as having tuberculosis or brucellosis.

This rule is intended to implement Iowa Code section 164.4.

21—64.66 Reserved.

[Filed 9/26/67, amended 9/25/73, 10/10/73, 12/9/74]

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ERADICATION OF SWINE BRUCELLOSIS

21—64.67(163A) Brucellosis test. When reactor animals are revealed on any test, the herd of origin and all exposed animals shall be placed under quarantine and inspections and tests performed as provided in Iowa Code chapter 163A.

This rule is intended to implement Iowa Code section 163A.12.

21—64.68(163A) Veterinarians to test. The department will designate a federal or state veterinarian or it may designate a licensed accredited veterinarian to make the inspections and tests. The expense of the tests may be charged to the county brucellosis eradication fund as provided in Iowa Code section 163A.12.

This rule is intended to implement Iowa Code section 163A.12.

21—64.69 and 64.70 Reserved.

21—64.71(163A) Fee schedule.

64.71(1) Bleeding. Thirty dollars per stop (herd) and five dollars per head for all animals bled.

64.71(2) Tagging of reactors. Thirty dollars per stop (herd) and two dollars per head for all swine tagged.

This rule is intended to implement Iowa Code section 163A.12.

[ARC 9102B, IAB 9/22/10, effective 9/1/10]

21—64.72 Reserved.

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ERADICATION OF BOVINE TUBERCULOSIS

21—64.73(163) Tuberculin tests classified. Tuberculin tests adopted by the department of agriculture and land stewardship are:

64.73(1) The subcutaneous or “Thermal” test.

64.73(2) The intradermic or “Skin” test.

64.73(3) The ophthalmic or “Eye” test.

This rule is intended to implement Iowa Code section 165.13.

21—64.74(163) Acceptance of intradermic test. The intradermic tuberculin test will be accepted provided it has been applied by a regularly employed state or federal veterinarian, an accredited veterinarian or by an approved veterinarian when endorsed by the authorities of the state of origin, provided the observations be made at the seventy-second hour.

This rule is intended to implement Iowa Code section 164.4.

21—64.75(163) Adoption of intradermic test. The intradermic test is hereby adopted for area tuberculosis eradication work.

This rule is intended to implement Iowa Code section 164.4.

21—64.76(163) Ophthalmic test. The ophthalmic test will not be accepted as an official test except when applied in combination with either the subcutaneous or intradermic test.

This rule is intended to implement Iowa Code section 164.4.

21—64.77(163) Tuberculin test deadline. All tuberculin tests must be made within 30 days of date of shipment.

This rule is intended to implement Iowa Code section 164.4.

21—64.78(163) Health certificate. All certificates of health must show the number of cattle included in the test, the name of the owner and the post-office address.

This rule is intended to implement Iowa Code section 164.7.

21—64.79(163) Ear tags. All cattle not identified by registration name and number shall be identified by a proper metal tag bearing a serial number attached to the right ear.

This rule is intended to implement Iowa Code section 164.11.

21—64.80(163) Cattle importation. No cattle shall be imported into the state of Iowa except in accordance with 65.4(163).

This rule is intended to implement Iowa Code sections 163.11 and 165.36.

21—64.81(163) Tuberculin reactors. All herds of breeding cattle in counties that are under state and federal supervision for the eradication of tuberculosis in which reactors have been found may be held in quarantine until they have passed a negative tuberculin test.

All cattle that react to the tuberculin test, as well as those which show physical evidence of tuberculosis, shall be marked for identification by branding with the letter “T” not less than two or more than three inches high on the hip near the tailhead, and to the left ear shall be attached a metal tag bearing a serial number and the inscription “REACTOR”.

This rule is intended to implement Iowa Code section 165.4.

[ARC 9102B, IAB 9/22/10, effective 9/1/10]

21—64.82(163) Steers—testing. All untested steer cattle shall be handled and maintained as a separate unit from the breeding cattle (which means they shall be quarantined, watered and fed apart from breeding cattle).

This rule is intended to implement Iowa Code sections 163.1 and 164.4.

21—64.83(163) Female cattle—testing. Female cattle, the products of which are intended for family use, may be tuberculin tested without being denied the use of the same pastures and the same watering troughs as steers in feeding. This does not apply to female cattle, the products of which are handled commercially; neither does it apply where the feeding cattle are other than steers. Cows kept under such conditions cannot be sold for any purpose other than slaughter without being subjected to an additional tuberculin test.

This rule is intended to implement Iowa Code sections 163.1 and 164.4.

21—64.84(163) Certificates and test charts. Certificates and test charts must be made to conform with United States Bureau of Animal Industry rules governing the interstate movement of cattle; the original must be attached to the waybill and a copy forwarded to the Chief of Division of Animal Industry, Iowa Department of Agriculture and Land Stewardship, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code sections 163.1 and 164.4.

21—64.85(163) Slaughtering reactors. Reactors to the tuberculin test brought in for immediate slaughter must be consigned to a slaughtering establishment having federal inspection and must be transported thereto in accordance with section V, Regulation 7, of B.A.I. Order No. 309.

64.85(1) When it is found on slaughter that animals are affected with tuberculosis, the chief, division of animal industry, may order an immediate investigation, and if deemed advisable have all breeding cattle on the premises from which the tubercular animals originated, tested for tuberculosis.

64.85(2) When cattle within the state of Iowa are sold under sale contract to pass a 60- or 90-day tuberculin test and have failed to pass the same, before being returned to the original owner, the party wishing to return such animal or animals shall first obtain a permit from the chief, division of animal industry, Iowa department of agriculture and land stewardship, to do so.

64.85(3) When cattle are sold out of the state of Iowa under sale contract to pass a 60- or 90-day tuberculin test and failing to pass the same, before being returned to the original owner, the party wishing to return such animal or animals shall first furnish a tuberculin test chart showing the reaction, giving the date of reaction and proving to the satisfaction of the chief, division of animal industry, that such animals are reactors.

This rule is intended to implement Iowa Code section 165.4.

21—64.86(163) Agriculture tuberculin rules. The rules adopted by the Iowa department of agriculture and land stewardship governing the establishment of tuberculosis-free accredited herds and accredited areas or units in Iowa will be applied to such herds, and areas or units in cooperation with the bureau of animal industry, United States department of agriculture.

This rule is intended to implement Iowa Code section 165.12.

21—64.87(163) “Tuberculosis-free accredited herd” defined. A tuberculosis-free accredited herd is one which has been tuberculin tested by the subcutaneous method or any other test approved by the bureau of animal industry, under the supervision of the Iowa department of agriculture and land stewardship and the United States department of agriculture or a veterinary inspector employed by the state in which cooperative tuberculosis eradication work is being conducted jointly by the United States department of agriculture and the state. Further, it shall be a herd in which no animal affected with tuberculosis has been found upon two annual or three semiannual tuberculin tests, as above described, and by physical examination.

This rule is intended to implement Iowa Code section 165.12.

21—64.88(163) Retesting. The entire herd, or any cattle in the herd, shall be tuberculin tested or retested at such time as is considered necessary by the federal or state authorities.

This rule is intended to implement Iowa Code section 165.32.

21—64.89(163) Accredited herd. No herd shall be classed as an accredited herd, in which tuberculosis has been found by the application of the test as referred to in 64.63(163), until such herd has been successfully subjected to two consecutive tests with tuberculin applied at intervals of not less than six months, the first interval dating from the time of removal of the tuberculous animals from the herd.

This rule is intended to implement Iowa Code section 165.12.

21—64.90(163) Selection of cattle for tuberculin tests. No cattle shall be presented for the tuberculin test which have been injected with tuberculin within 60 days immediately preceding or which have at any time reacted to a tuberculin test.

This rule is intended to implement Iowa Code sections 165.10, 165.13 and 165.26.

21—64.91(163) Identification for test. Prior to each tuberculin test satisfactory evidence of the identity of the registered animal shall be presented to the inspector. Any grade cattle maintained in the herd or associated with the animals of the herd shall be identified by a tag or other marking satisfactory to the state and federal officials.

This rule is intended to implement Iowa Code section 163.1.

21—64.92(163) Removing cattle from herd. All removals of cattle from the herd, either by sale, death or slaughter, shall be reported promptly to the said state or federal officials, giving the identification of the animal, and if sold, the name and address of the person to whom transferred. If the transfer is made from the accredited herd to another accredited herd the shipment shall be made in only cleaned and disinfected cars. No cattle which have not passed a tuberculin test approved by the state and federal officials shall be allowed to associate with the herd.

This rule is intended to implement Iowa Code section 163.1.

21—64.93(163) Milk. All milk and other dairy products fed to calves shall be that produced by an accredited herd, or if from outside or unknown sources it shall be pasteurized by heating to not less than 150° F. for not less than 20 minutes.

This rule is intended to implement Iowa Code section 163.1.

21—64.94(163) Sanitary measures. All reasonable sanitary measures and other recommendations by the state and federal authorities for the control of tuberculosis shall be complied with.

This rule is intended to implement Iowa Code section 163.1.

21—64.95(163) Interstate shipment. Cattle from an accredited herd may be shipped interstate on certificate obtained from the office of the chief, division of animal industry, or from the office of the bureau of animal industry without further tuberculin test, for a period of one year, subject to the rules of the state of destination.

This rule is intended to implement Iowa Code section 165.36.

21—64.96(163) Reactors—removal. All cattle which react to the tuberculin test and for which the owner desires indemnity, as provided by statute, must be removed immediately from the cattle barn, lots and pastures where other cattle are being kept.

64.96(1) The barn or place where reacting cattle have been housed or kept shall be thoroughly cleaned and disinfected immediately.

64.96(2) Feed places and floors must be cleared of all hay and manure and scraped clean.

64.96(3) All loose boards and decayed woodwork should be removed, and when deemed necessary, and requested by the veterinarian, must be accomplished before it will be considered that the place has been properly cleaned and disinfected.

64.96(4) The feeding places, troughs, floors and partitions near the floor should be washed and scoured with hot water and lye.

This rule is intended to implement Iowa Code section 163.1.

21—64.97(163) Certificate. Strict compliance with these methods and rules shall entitle the owner of tuberculosis-free herds to a certificate, "TUBERCULOSIS-FREE ACCREDITED HERD", to be issued by the United States Department of Agriculture, bureau of animal industry and the division of animal industry, Iowa department of agriculture and land stewardship. Said certificate shall be good for one year from date of test unless revoked at an earlier date.

This rule is intended to implement Iowa Code section 165.12.

21—64.98(163) Violation of certificate. Failure on the part of the owners to comply with the letter or spirit of these methods and rules shall be considered sufficient cause for immediate cancellation of the cooperative agreement with them by the state and federal officials.

This rule is intended to implement Iowa Code section 165.12.

21—64.99(163) Tuberculin—administration. In accordance with the provisions of Iowa Code chapter 165, the Iowa department of agriculture and land stewardship shall have control of the sale, distribution and use of all tuberculin used in the state and shall formulate regulations for its distribution and use. Only such persons as are authorized by the department, inspectors of the B.A.I. and regularly licensed practicing veterinary surgeons of the state of Iowa shall be entitled to administer tuberculin to any animal included within the meaning of this chapter.

This rule is intended to implement Iowa Code section 165.13.

21—64.100(163) Sale of tuberculin. No person, firm or corporation shall sell or distribute tuberculin to any person or persons in the state of Iowa except under the following conditions:

64.100(1) That the person or persons are legally authorized to administer tuberculin.

64.100(2) That all sales of tuberculin shall be reported to the secretary of agriculture on proper forms, which forms may be obtained from the chief, division of animal industry.

64.100(3) Reports of all sales and distribution of tuberculin in the state of Iowa shall be made in triplicate; the original copy to be delivered with the tuberculin to the person obtaining same; the duplicate to be forwarded to the Chief, Division of Animal Industry, Des Moines, Iowa 50319; and the triplicate copy to be retained by the manufacturer or distributor. All reports shall be made within 60 days from date of sale.

This rule is intended to implement Iowa Code section 165.12.

21—64.101(165) Fee schedule.

64.101(1) *Injection.* Thirty dollars per stop (herd) and two dollars per head.

64.101(2) *Reading.* Thirty dollars per stop (herd) and two dollars per head.

64.101(3) *Tagging and branding reactors.* Five dollars first reactor and three dollars each additional reactor.

This rule is intended to implement Iowa Code section 165.17.

[ARC 9102B, IAB 9/22/10, effective 9/1/10]

21—64.102 and 64.103 Reserved.

[Filed 11/26/57, amended 7/13/65]

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CHRONIC WASTING DISEASE (CWD)

21—64.104(163) Definitions. Definitions used in rules 64.104(163) through 64.119(163) are as follows:

“Accredited veterinarian” means a veterinarian approved by the deputy administrator of veterinary services, Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), and the state veterinarian in accordance with Part 161 of Title 9, Chapter 1, of the Code of Federal Regulations, revised as of July 21, 2006, to perform functions required by cooperative state/federal animal disease control and eradication programs.

“Adjacent herd” means one of the following:

1. A herd of Cervidae occupying premises that border an affected herd, including herds separated by roads or streams.

2. A herd of Cervidae occupying premises that were previously occupied by an affected herd within the past four years as determined by the designated epidemiologist.

“Affected cervid herd” means a cervid herd from which any animal has been diagnosed as affected with CWD and which has not been in compliance with the control program for CWD as described in rules 64.104(163) through 64.119(163).

“Approved laboratory” means an American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory or the National Veterinary Services Laboratory, Ames, Iowa.

“Certificate” means an official document, issued by a state veterinarian or federal animal health official or an accredited veterinarian at the point of origin, containing information on the individual identification of each animal being moved, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, and any other information required by the state veterinarian.

“Certified CWD cervid herd” means a herd of Cervidae that has met the qualifications for and has been issued a certified CWD cervid herd certificate signed by the state veterinarian.

“Cervidae” means all animals belonging to the Cervidae family.

“Cervid CWD surveillance identification program” or *“CCWDSI program”* means a CWD surveillance program that requires identification and laboratory diagnosis on all deaths of Cervidae 16 months of age and older including, but not limited to, deaths by slaughter, hunting, illness, and injury. A copy of approved laboratory reports shall be maintained by the owner for purposes of completion of the annual inventory examination for recertification. Such diagnosis shall include examination of brain and any other tissue as directed by the state veterinarian. If there are deaths for which tissues were not submitted for laboratory diagnosis due to postmortem changes or unavailability, the department shall determine compliance.

“Cervid dealer” means any person who engages in the business of buying, selling, trading, or negotiating the transfer of Cervidae, but not a person who purchases Cervidae exclusively for slaughter on the person’s own premises or buys and sells as part of a normal livestock production operation.

“Cervid herd” means a group of Cervidae or one or more groups of Cervidae maintained on common ground or under common ownership or supervision that are geographically separated but can have interchange or movement.

“Cervid herd of origin” means a cervid herd, or any farm or other premises, where the animals were born or where they currently reside.

“Chronic wasting disease” or *“CWD”* means a transmissible spongiform encephalopathy of cervids.

“CWD affected” means a designation applied to Cervidae diagnosed as affected with CWD based on laboratory results, clinical signs, or epidemiologic investigation.

“CWD exposed” or *“exposed”* means a designation applied to Cervidae that are either part of an affected herd or for which epidemiological investigation indicates contact with CWD affected animals or contact with animals from a CWD affected herd in the past five years.

“CWD susceptible Cervidae” means whitetail deer, blacktail deer, mule deer, red deer, elk, moose, and related species and hybrids of these species.

“CWD suspect” or *“suspect”* means a designation applied to Cervidae for which laboratory evidence or clinical signs suggest a diagnosis of CWD but for which laboratory results are inconclusive.

“Designated epidemiologist” means a veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the state veterinarian.

“Group” means one or more Cervidae.

“Individual herd plan” means a written herd management and testing plan that is designed by the herd owner, the owner’s veterinarian, if requested, and a designated epidemiologist to identify and eradicate CWD from an affected, exposed, or adjacent herd.

“Monitored CWD cervid herd” means a herd of Cervidae that is in compliance with the CCWDSI program as defined in this rule. Monitored herds are defined as one-year, two-year, three-year, four-year, and five-year monitored herds in accordance with the time in years such herds have been in compliance with the CCWDSI program.

“Official cervid CWD test” means an approved test to diagnose CWD conducted at an official laboratory.

“Official cervid identification” means one of the following:

1. A USDA-approved identification ear tag that conforms to the alphanumeric national uniform ear tagging system as defined in 9 CFR Part 71.1, Chapter 1, revised as of July 21, 2006.

2. A plastic or other material tag that includes the official herd number issued by the USDA, and includes individual animal identification which is no more than five digits and is unique for each animal.

3. A legible tattoo which includes the official herd number issued by the USDA, and includes individual animal identification which is no more than five digits and is unique for each animal.

4. A plastic or other material tag which provides unique animal identification and is issued and approved by the North American Elk Breeders Association.

5. A plastic or other material tag which provides unique animal identification and is issued and approved by the North American Deer Farmers Association.

“Permit” means an official document that is issued by the state veterinarian or USDA area veterinarian-in-charge or an accredited veterinarian for movement of affected, suspect, or exposed animals.

“Quarantine” means an imposed restriction prohibiting movement of cervids to any location without specific written permits.

“State” means any state of the United States; the District of Columbia; Puerto Rico; the U.S. Virgin Islands; or Guam.

“Traceback” means the process of identifying the herd of origin of CCWDSI-positive animals, including herds that were sold for slaughter.

21—64.105(163) Supervision of the cervid CWD surveillance identification program. The state veterinarian’s office will conduct an annual inventory of Cervidae in a herd enrolled in the CCWDSI program.

21—64.106(163) Surveillance procedures. For cervid herds enrolled in this voluntary certification program, surveillance procedures shall include the following:

64.106(1) Slaughter establishments. All slaughtered Cervidae 16 months of age and older must have brain tissue submitted at slaughter and examined for CWD by an approved laboratory. This brain tissue sample will be obtained by a state or federal meat inspector or accredited veterinarian on the premises at the time of slaughter.

64.106(2) Cervid herds. All cervid herds must be under continuous surveillance for CWD as defined in the CCWDSI program.

64.106(3) Identification. All cervid animals must be identified with two forms of official identification. Cervid animals identified with a tattoo must have a second visual form of official identification.

21—64.107(163) Official cervid tests. The following are recognized as official cervid tests for CWD:

1. Histopathology.
2. Immunohistochemistry.
3. Western blot.
4. Negative stain electron microscopy.
5. Bioassay.
6. Any other tests performed by an official laboratory to confirm a diagnosis of CWD.

21—64.108(163) Investigation of CWD affected animals identified through surveillance. Traceback must be performed for all animals diagnosed at an approved laboratory as affected with CWD. All herds of origin and all adjacent herds having contact with affected animals as determined by the CCWDSI program must be investigated epidemiologically. All herds of origin, adjacent herds, and herds having contact with affected animals or exposed animals must be quarantined.

21—64.109(163) Duration of quarantine. Quarantines placed in accordance with these rules shall be removed as follows:

1. For herds of origin, quarantines shall be removed after five years of compliance with rules 64.104(163) through 64.119(163).

2. For herds having contact with affected or exposed animals, quarantines shall be removed after five years of compliance with rules 64.104(163) through 64.119(163).

3. For adjacent herds, quarantines shall be removed as directed by the state veterinarian in consultation with the epidemiologist.

21—64.110(163) Herd plan. The herd owner, the owner's veterinarian, if requested, and the epidemiologist shall develop a plan for eradicating CWD in each affected herd. The plan must be designed to reduce and then eliminate CWD from the herd, to prevent spread of the disease to other herds, and to prevent reintroduction of CWD after the herd becomes a certified CWD cervid herd. The herd plan must be developed and signed within 60 days after the determination that the herd is affected. The plan must address herd management and adhere to rules 64.104(163) through 64.119(163). The plan must be formalized as a memorandum of agreement between the owner and program officials, must be approved by the state veterinarian, and must include plans to obtain certified CWD cervid herd status.

21—64.111(163) Identification and disposal requirements. Affected and exposed animals must remain on the premises where they are found until they are identified and disposed of in accordance with direction from the state veterinarian.

21—64.112(163) Cleaning and disinfecting. Premises must be cleaned and disinfected under state supervision within 15 days after affected animals have been removed.

21—64.113(163) Methods for obtaining certified CWD cervid herd status. Certified CWD cervid herd status must include all Cervidae under common ownership. The animals that are part of a certified herd cannot be commingled with other cervids that are not certified, and a minimum geographic separation of 30 feet between herds of different status must be maintained in accordance with the USDA Uniform Methods and Rules as defined in APHIS Manual 91-45-011, revised as of January 22, 1999. A herd may qualify for status as a certified CWD cervid herd by one of the following means:

64.113(1) Purchasing a certified CWD cervid herd. Upon request and with proof of purchase, the department shall issue a new certificate in the new owner's name. The anniversary date and herd status for the purchased animals shall be the same as for the herd to which the animals are added; or if part or all of the purchased herd is moved directly to premises that have no other Cervidae, the herd may retain the certified CWD status of the herd of origin. The anniversary date of the new herd is the date of the most recent herd certification status certificate.

64.113(2) Upon request and with proof by records, a herd owner shall be issued a certified CWD cervid herd certificate by complying with the CCWDSI program for a period of five years.

21—64.114(163) Recertification of CWD cervid herds. A herd is certified for 12 months. Annual inventories conducted by state veterinarians are required every 9 to 15 months from the anniversary date. For continuous certification, adherence to the provisions in these rules and all other state laws and rules pertaining to raising cervids is required. A herd's certification status is immediately terminated and a herd investigation shall be initiated if CWD affected or exposed animals are determined to originate from that herd.

21—64.115(163) Movement into a certified CWD cervid herd.

64.115(1) Animals originating from certified CWD cervid herds may move into another certified CWD cervid herd with no change in the status of the herd of destination.

64.115(2) The movement of animals originating from noncertified or lesser status herds into certified CWD cervid herds will result in the redesignation of the herd of destination to the lesser status.

21—64.116(163) Movement into a monitored CWD cervid herd.

64.116(1) Animals originating from a monitored CWD cervid herd may move into another monitored CWD cervid herd of the same status.

64.116(2) The movement of animals originating from a herd which is not a monitored CWD cervid herd or from a lower status monitored CWD cervid herd will result in the redesignation of the herd of destination to the lesser status.

21—64.117(163) Recognition of monitored CWD cervid herds. The state veterinarian shall issue a monitored CWD cervid herd certificate, including CWD monitored herd status as CWD monitored Level 1 during the first calendar year, CWD monitored Level 2 during the second calendar year, CWD monitored Level 3 during the third calendar year, CWD monitored Level 4 during the fourth calendar year, CWD monitored Level 5 during the fifth calendar year, and CWD certification at the completion of the fifth year and thereafter.

21—64.118(163) Recognition of certified CWD cervid herds. The state veterinarian shall issue a certified CWD cervid herd certificate when the herd first qualifies for certification. The state veterinarian shall issue a renewal form annually.

21—64.119(163) Effective period. Rescinded IAB 9/14/05, effective 8/16/05.

These rules are intended to implement Iowa Code chapter 163 and Iowa Code Supplement chapter 170.

21—64.120 to 64.132 Reserved.

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ERADICATION OF SWINE TUBERCULOSIS

21—64.133(159) Indemnity. Indemnity may be paid for losses incurred by slaughtering establishments in the event native Iowa swine purchased by the establishments for immediate slaughter are determined to have tuberculosis by the official meat inspector at the establishment, subject to laboratory confirmation at the discretion of the department by any laboratory procedure acceptable to the department. Indemnity will be paid by the county of origin of the swine provided that swine shall be identified to the farm of origin located in that county. If no identification can be established on swine no indemnity may be paid.

If the county bovine tuberculosis eradication funds are insufficient, the claim may be filed and may be paid in subsequent years.

Indemnity will be paid to the producer of swine only after proof of cleaning and disinfecting of premises has been established.

If a herd of swine is tested for tuberculosis at program expense authorization must be given by an official of the Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code sections 159.5 and 163.15.

21—64.134(159) Fee schedule.

64.134(1) Injection. Thirty dollars per stop (herd) and two dollars per head.

64.134(2) Reading. Thirty dollars per stop (herd) and one dollar per head.

64.134(3) Tagging. Five dollars for first reactor and one dollar for each additional reactor.

This rule is intended to implement Iowa Code section 159.5(13).

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21—64.135 to 64.146 Reserved.

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PSEUDORABIES DISEASE

21—64.147(163,166D) Definitions. As used in these rules:

“All-in-all-out” means a management system whereby feeder swine are handled in groups kept “separate and apart” from other groups in a production facility. These groups are removed from the production facility with the completely vacated area being cleaned and sanitized prior to the introduction of another group.

“Aujeszky’s disease,” commonly known as pseudorabies, means the disease wherein an animal is infected with Aujeszky’s disease virus, irrespective of the occurrence or absence of clinical symptoms.

“Breeding swine” means boars, sows and gilts used, or intended for use, exclusively for reproductive purposes.

“Department” means the Iowa department of agriculture and land stewardship.

“Exigent circumstances” means an extraordinary situation that the secretary concludes will impose an unjust and undue economic hardship if coupled with the imposition of these rules.

“Fertility center” means a premises where breeding swine are maintained for the purposes of the collection of semen, ovum, or other germplasm and for the distribution of semen, ovum, or other germplasm to other swine herds.

“Herd” means any group of swine maintained for 60 days or more on common ground for any purpose, or two or more groups of swine that have been intermingled without regard to pseudorabies status and are under common ownership or possession and that have been geographically separated within the state of Iowa. Two or more groups of swine are assumed to be one herd, unless an investigation by the epidemiologist has determined that intermingling and contact between groups has not occurred.

“Low incidence state/area” means a state or subdivision of a state with little or no incidence of pseudorabies and which qualifies for Stage III, or higher, and has been designated Stage III, or higher, by the National Pseudorabies Control Board as defined in the State/Federal Industry Program Standards for pseudorabies eradication; or an area outside the United States with a low incidence of pseudorabies determined by at least an equivalent testing protocol as is used to establish Stage III status.

“Native Iowa feeder pig” means a feeder pig farrowed in Iowa, and always located in Iowa.

“Premises” means a parcel of land together with buildings, enclosures and facilities sufficient for swine production.

“Restricted movement” means movement of swine in accordance with 2000 Iowa Acts, Senate File 2312, section 17.

“Vicinity” means a distance less than one-half mile.

21—64.148(163,166C) Pseudorabies tests and reports. Rescinded IAB 9/6/89, effective 10/11/89.

21—64.149(163,166C) Approval of qualified pseudorabies negative herd. Rescinded IAB 9/6/89, effective 10/11/89.

21—64.150(163,166C) Shipment of breeding swine and feeder pigs. Rescinded IAB 9/6/89, effective 10/11/89.

21—64.151(163,166D) Quarantines.

64.151(1) Except for sales to slaughter or to pseudorabies-approved premises, owners of animals tested for pseudorabies shall hold the entire herd on the premises until results are determined.

64.151(2) Infected herds not on an approved cleanup plan. All known pseudorabies infected herds, not on an approved herd cleanup plan, are subject to restricted movement to slaughter according to 64.154(2)“c” and 64.155(8).

64.151(3) Quarantine releasing procedures.

a. A herd of swine shall no longer be classified as a known infected herd after removal of all positive swine and at least one of the following three conditions have been met:

(1) All swine have been removed and the premises have been cleaned and disinfected and maintained free of swine for 30 days or a period of time determined adequate by an official pseudorabies epidemiologist.

(2) All swine seropositive to an official test have been removed and all remaining swine, except suckling pigs, are tested and found negative 30 days or more after removal of the seropositive animals.

(3) All swine seropositive to an official test have been removed, and all breeding swine that remain in the herd and an official random sample consisting of at least 30 animals from each segregated group of grower-finisher swine over two months of age are tested and found negative 30 days or more after removal of the seropositive animals. A second test of grower-finisher swine at least 30 days after the first test is required.

b. In nurseries and finishing herds without any breeding swine and where no pigs are received from quarantined premises, quarantines may be released as follows:

(1) A negative official random-sample test consisting of at least 30 animals from each segregated group, conducted at least 30 days following depopulation with cleaning and disinfection of the premises and 7 days' downtime, or

(2) A negative official random-sample test consisting of at least 30 animals from each segregated group, conducted at least 30 days following a similar negative official random-sample test.

A similar official random-sample test must then be conducted between 60 and 90 days following quarantine release.

Any quarantine releasing procedure deviating from the above procedures or Iowa Code section 166D.9 must be approved by the official pseudorabies epidemiologist and the state veterinarian.

21—64.152(163,166D) Nondifferentiable pseudorabies vaccine disapproved. The only pseudorabies vaccine or pseudorabies vaccine combination used in this state shall be a differentiable vaccine.

After July 1, 1993, this vaccine must be differentiable by a licensed and approved differentiable pseudorabies test capable of determining gp1 negative swine vaccinated with a gp1 gene deleted vaccine.

21—64.153(166D) Pseudorabies disease program areas.

64.153(1) Pseudorabies disease program areas as declared by the Iowa department of agriculture and land stewardship: all counties in the state of Iowa.

64.153(2) All producers will permit sufficient swine in their herds to be tested at program expense to determine the health status of the herd at intervals during the course of the program as deemed necessary by the department.

The owner shall confine the swine to be tested in a suitable place and restrain them in a suitable manner so that the proper tests can be applied. If the owner refuses to confine and restrain the swine, after reasonable time the department may employ sufficient help to properly confine and restrain them and the expense of such help shall be paid by the owner.

The swine tested shall be sufficient in number, and by method of selection, to quality for the surveillance program required to attain and maintain the program stages according to the most recent “State-Federal-Industry Program Standards” for pseudorabies eradication.

64.153(3) No indemnities will be paid for condemned animals.

64.153(4) Any person possessing swine is required to provide the name and address of the owner or the owner's agent to a representative of the department.

64.153(5) Beginning on October 1, 1999, all swine located within three miles of a pseudorabies-infected herd are required to be vaccinated with an approved pseudorabies vaccine within seven days of notification by a regulatory official. One dose of vaccine shall be administered to

growing swine prior to 14 weeks of age or 100 pounds. Swine over six months of age or greater than 200 pounds, used or intended to be used for breeding, shall receive vaccine on a schedule designed to administer at least four doses throughout a 12-month period. The department may require a herd test to monitor both the pseudorabies status and the pseudorabies vaccine status of the herd.

A waiver for this vaccination requirement may be issued by the state veterinarian, based on epidemiological investigation and risk determination. Herd testing, at a level determined by the pseudorabies epidemiologist, will be required as a condition for issuance of a vaccination waiver.

In addition, beginning April 19, 2000, all swine located in a county designated as in Stage II of the national pseudorabies eradication program are required to be vaccinated with a modified-live differentiable vaccine. Breeding swine shall at a minimum receive quarterly vaccinations. Feeder swine shall at a minimum receive one vaccination administered when the swine reach 8 to 12 weeks of age or 100 pounds. These vaccination requirements shall be waived if:

- a. The swine are part of a herd's being continuously maintained as a qualified negative herd; or
- b. The swine are part of a herd located within a county where both of the following conditions apply:

- (1) The department has determined that the county has a six-month history of 0 percent prevalence of pseudorabies infection among all herds in the county, and

- (2) All contiguous counties have a 0 percent prevalence of pseudorabies infection among herds in that county.

64.153(6) All premises containing swine which are located in the Stage II area of Iowa must have a monitoring test for the premises conducted between January 1, 2000, and August 31, 2000.

21—64.154(163,166D) Identification.

64.154(1) All breeding and feeder swine being exhibited or having a change of ownership must be identified by a method approved by the Iowa department of agriculture and land stewardship. The identification shall be applied by the owner, the pig dealer, or the livestock dealer at the farm of origin or by the pig dealer or the livestock dealer at the first concentration point.

64.154(2) Approved identification.

a. *Breeding swine.*

- (1) Ear tags or tattoos with an alphabetic or numeric system to provide unique identification for each animal.

- (2) Ear notches or ear tattoos, if applied according to the standard breed registry system.

- (3) Electronic devices, other devices, or marks which, when applied, will permanently and uniquely identify each animal.

- (4) Breeding swine qualified to move intrastate without individual tests may move without unique identification of each animal, if they are all identified as a group to the herd of origin by an official premises tattoo.

b. *Feeder swine.*

- (1) Ear tags or tattoos with an alphabetic or numeric system to provide unique identification with each herd, each lot, or each individual swine.

- (2) Electronic devices, other devices, or marks which, when applied, will provide permanent identification with each herd, each lot, or each individual swine.

c. *Restricted movement swine.*

- (1) All infected herds not on an approved herd cleanup plan shall only move swine directly to slaughter by restricted movement. All animals from infected herds must move by restricted movement to slaughter (slaughtering plant or fixed concentration point) or to an approved premises detailed in the herd cleanup plan. The department may, until a herd plan is approved and showing progress, require the movement of all slaughter swine by "direct movement," to slaughter only, by a Permit for Restricted Movement to Slaughter which provides a description of the animals, the owner, the consignee, the date of movement, the destination, and the identification or vehicle seal number if applicable. These "restricted movement to slaughter only swine" shall be individually identified by approved metal ear tags applied at the farm of origin, if required. The transportation vehicle must be sealed at the farm of origin. This seal

shall be applied by an accredited veterinarian. This seal shall be removed by an accredited veterinarian, USDA official, department official, or the person purchasing the swine upon arrival of the consignment at the destination indicated on the Permit for Restricted Movement to Slaughter.

The ear tags shall have an alphabetic or numeric numbering system to provide unique identification with each herd, each lot, or each individual swine. They shall be applied prior to movement and listed on the Permit for Restricted Movement to Slaughter, if required. This Permit for Restricted Movement to Slaughter shall be issued and distributed by an accredited veterinarian as follows:

1. Original to accompany shipment.
2. Mail a copy to the department.
3. Veterinarian issuing permit will retain a copy.

(2) The vehicle sealing requirement may be waived by the department. Written application for waiver must be directed to the state veterinarian's office, and written waivers may be granted for herds in compliance with an approved herd cleanup plan. The minimal requirements for granting a waiver shall be:

1. No clinical disease in the herd for the past 30 days.
2. Complete herd vaccination documentation.
3. Compliance with herd plan testing requirements.
4. Concurrence of herd veterinarian and regulatory district veterinarian.

No waiver shall be granted, and waivers already granted shall be voided, for herds still classified as infected four months from the initial infection date. The department may impose additional requirements on a case-by-case basis.

The department may grant an extension to this waiver for a period of up to four additional months on a case-by-case basis. Written application for waiver extension must be directed to the state veterinarian's office, and written waivers may be granted for herds in compliance with an approved herd cleanup plan.

64.154(3) Approved ear tags available from the Iowa department of agriculture and land stewardship:

- a. Pink tags to identify pseudorabies vaccinated swine.
- b. Silver tags to identify feeder pigs from pseudorabies noninfected herds.
- c. Blue tags to identify other swine.

64.154(4) Farm-to-farm movement of native Iowa feeder pigs.

a. Native Iowa feeder pigs sold and moved farm-to-farm within the state are exempt from identification requirements if the owner transferring possession and the person taking possession agree in writing that the feeder pigs will not be commingled with other swine for a period of 30 days. The owner transferring possession shall provide a copy of the agreement to the person taking possession of the feeder pigs.

b. "Moved farm-to-farm" as used in this rule means feeder pigs farrowed and raised in Iowa by a farm owner or operator and sold to another farm owner or operator who agree, in writing, not to commingle these pigs for at least 30 days.

Feeder pigs purchased for resale by a pig dealer cannot be moved farm-to-farm, as described in the above paragraph. They must be accompanied by a Certificate of Veterinary Inspection and be identified.

c. Identification-exempt feeder pigs must originate from a "monitored," or other "noninfected," herd. The "monitored herd" number, or other qualifying number, and the date of expiration must also be shown on the Certificate of Inspection.

All identification-exempt feeder pigs aboard the transport vehicle must be from the same farm of origin and be the only pigs aboard. They must be kept in "isolation" and transported by "direct movement" to the farm of destination.

d. The veterinarian will certify, by signature on the Certificate of Inspection, that the above conditions have been met and that the pigs are exempt from the identification requirements and will qualify for movement according to 64.155(4).

64.154(5) Swine being relocated intrastate without a change of ownership are exempt from health certification, identification requirements, and transportation certification except as required by Iowa Code chapter 172B provided relocation records sufficient to determine the origin, the current

pseudorabies status of the herd of origin, the number relocated, the date relocated, and destination of the relocated swine are available for inspection.

Swine relocated within a herd held on multiple premises are exempted from this health certification, identification requirement, and transportation certification, except as required by Iowa Code chapter 172B and the above record-keeping requirements.

Relocation records, if required, shall be maintained and available for inspection for a minimum of two years.

64.154(6) This rule should not be construed to implement or affect the identification requirements set down in Iowa Code sections 163.34, 163.35, 163.36, and 163.37. Records of identification applied to slaughter swine at concentration points shall be reported weekly to the department on forms provided by the department.

21—64.155(163,166D,172B) Certificates of inspection. The following certificates shall be used as outlined. All are provided by the department. All require inspection by a licensed accredited veterinarian.

64.155(1) Iowa origin Interstate Certificates of Veterinary Inspection shall be used for exporting breeding swine or feeder swine out of the state.

64.155(2) Intrastate Certificates of Veterinary Inspection shall be used for the following movements:

a. The intrastate movement of feeder swine, with a change of ownership, originating from noninfected herds requires approved identification and noninfected herd identification number, showing the date of last test on a Certificate of Veterinary Inspection. The feeder swine shall be quarantined for 30 days.

b. The intrastate movement, with a change of ownership, of breeding swine from nonquarantined herds requires approved identification and noninfected herd number, or individual test results and dates tested included on a Certificate of Veterinary Inspection only. The breeding swine shall be quarantined for 30 days.

c. The concentration points to farm movement of feeder swine originating from noninfected herds requires approved identification and herd identification number and date tested included on a Certificate of Veterinary Inspection. The feeder swine shall be quarantined for 30 days.

d. The concentration point to farm intrastate movement of noninfected breeding swine from nonquarantined herds requires approved identification and noninfected herd number or individual test results and dates tested included on a Certificate of Veterinary Inspection. The breeding swine shall be quarantined for 30 days.

e. The farm to an approved premises or from a concentration point to an approved premises movement of feeder swine requires approved identification and approved premises number to be included on a Certificate of Veterinary Inspection. A statement, "Quarantined until slaughter," shall be included on a Certificate of Veterinary Inspection.

f. Movement of exhibition swine to an exhibition when a certificate is required must be with a Certificate of Veterinary Inspection.

64.155(3) QLISM certificate. A QLISM certificate shall be used when moving swine under restricted movement and quarantined until moved to slaughter. The certificate shall be used for the following movements:

a. Movement of feeder swine from quarantined herds to approved premises. Approved identification and approved premises number shall be included on the certificate. The swine are quarantined to slaughter or can be moved to another approved premises on a certificate of inspection.

b. Movement of feeder swine from herds of unknown status, feeder pig cooperator herd plans, or herd cleanup plans. Approved identification shall be included on the certificate. This certificate is used for farm-to-farm or concentration point to farm movements.

64.155(4) A Farm-to-Farm Certificate of Veterinary Inspection or an Intrastate Certificate of Veterinary Inspection shall be used for moving identification-exempt native Iowa feeder pigs farm-to-farm according to 64.154(4) "b." Feeder swine purchased for resale by a pig dealer must be identified and accompanied by a Certificate of Inspection.

64.155(5) Import Interstate Certificates from out-of-state origins shall accompany shipments of breeding swine and feeder swine into Iowa.

a. Feeder swine: If a state of origin does not issue a monitored herd number, then the certificate shall include the statement, “These pigs are from a noninfected herd and the date of last test was _____,” or “These pigs are from a monitored herd tested within the last 12 months. Date of last test was _____.” The certificate shall include the following statement: “These feeder pigs are quarantined until moved to slaughter.”

b. Breeding swine: Individual test results and date tested or noninfected herd number and date of last test shall be included on the certificate.

c. Feeder swine from low incidence state/area of origin. The certificate shall include the following statements, “These pigs were born and raised in the state/area of _____,” (state/area name) and “These feeder pigs are quarantined until moved to slaughter.”

d. Beginning January 1, 1998, all imported feeder swine, except those from qualified negative herds entering qualified negative herds, must be vaccinated for pseudorabies with a G1 deleted vaccine within 45 days of arrival if imported into a county with a pseudorabies prevalence greater than 3 percent. This requirement must be stated on the import interstate certificate. Imported swine consigned directly to slaughter are exempt from vaccination requirements.

64.155(6) Slaughter affidavits shall accompany all shipments of feeder swine or finished swine from concentration points moving direct to slaughter.

64.155(7) Transportation certificate. This certificate involves shipments of swine from farm or approved premises moving direct to slaughter as detailed in Iowa Code chapter 172B. Veterinary inspection not required.

64.155(8) Rescinded IAB 10/22/97, effective 10/1/97.

21—64.156(166D) Noninfected herds.

64.156(1) *Qualified pseudorabies negative herd—recertification.*

a. Recertification of a qualified pseudorabies negative herd and a qualified differential negative herd shall be by monthly testing, as detailed in Iowa Code section 166D.7(1) “a.”

b. The status of a qualified pseudorabies negative herd will be revoked if:

- (1) A positive test is recognized and interpreted by a pseudorabies epidemiologist as infected.
- (2) Pseudorabies infection is diagnosed.
- (3) Recertification testing is not done on time.
- (4) Inadequate number of animals are tested.
- (5) Once a qualified pseudorabies negative herd is decertified, the herd must meet all requirements of Iowa Code section 166D.7, to recertify as a qualified pseudorabies negative herd.

64.156(2) *Iowa monitored feeder pig herd.*

a. Test requirements for a monitored feeder pig herd status include a negative herd test every 12 months of randomly selected breeding animals according to the following schedule:

1-10 head	Test all
11-35 head	Test 10
36 or more	Test 30 percent or 30, whichever is less.

Effective July 1, 2000, all breeding herd locations in Stage II counties must have a monitored or better status or move by restricted movement.

b. A monitored identification card will be sent by first-class mail to the herd owner shown on the test chart if test results qualify the herd as monitored. An expiration date which is 12 months from the date that the certifying tests were drawn will be printed on the card.

It is the owner’s responsibility to retest the herd annually. The monitored status is voided on the date of expiration. A monitored herd status is revoked if:

- (1) A positive test is recognized and interpreted by a pseudorabies epidemiologist and interpreted as infected.

- (2) Pseudorabies infection is diagnosed.
- (3) Recertification test is not done on time.
- (4) Not enough tests, according to herd size and vaccination status, are submitted.

c. Additions of swine to a monitored herd shall be from noninfected herds, according to Iowa Code section 166D.7.

d. Feeder pigs sold for further feeding require a monitoring test conducted within the six months prior to movement if the feeder pigs have been maintained on the same site as the breeding herd.

e. Monitored, or higher, status feeder pigs sold may regain, and maintain, monitored status by a negative test of all or a random sample of 30 head of each segregated group, whichever is less, within 30 days prior to resale.

f. Nursery units located in Stage II counties and not in the vicinity of the breeding herd are required to maintain a monitored status on the nursery unit in order for the swine to be eligible to be relocated to a finishing premises. Feeder pigs sold from these nursery units must meet the requirements of a negative test of all or a random sample of 30 head of each segregated group, whichever is less, within 30 days prior to sale. An official random-sample test shall be required for each segregated group of swine on an individual premises every 12 months for the maintenance of this monitored status. These testing requirements apply to swine eligible for relocation movement. Testing requirements for this random sampling are:

Test 10 head per building, minimum 14 head per site.

Effective July 1, 2000, all nursery locations in Stage II counties must have a monitored or better status or move by restricted movement.

g. Off-site finishing units located in the Stage II counties are required to maintain a monitored status on the finishing unit in order for the swine to be eligible to be sold to slaughter. An official random-sample test will be required for each segregated group of swine on an individual premises every 12 months for the maintenance of this monitored status. These testing requirements also apply to swine eligible for relocation movement. Testing requirements for this random sampling are:

Test 10 head per building, minimum 14 head per site.

Effective July 1, 2000, all finishing locations in Stage II counties must have a monitored or better status or move by restricted movement.

h. Relocation, and sales to slaughter, require a 12-month monitoring test.

64.156(3) *Qualified differentiable negative herd—recertification.*

a. Recertification of a qualified differentiable negative herd will include monthly testing, as detailed in Iowa Code section 166D.7. A minimum of five breeding swine or 10 percent of the breeding herd, whichever is greater, must be tested each month.

b. The status of a qualified differentiable negative herd will be revoked if:

- (1) A positive test is recognized and interpreted by a pseudorabies epidemiologist as infected.
- (2) Pseudorabies infection is diagnosed.
- (3) Recertification testing is not done on time.
- (4) Inadequate number of animals are tested.

(5) Once a qualified differentiable negative herd is decertified, the herd must meet all requirements in Iowa Code section 166D.7 to recertify as a qualified differentiable negative herd.

64.156(4) *Maintaining qualified negative status (progeny).* Progeny from qualified negative (unvaccinated) or from qualified negative (vaccinated) herds moved to a facility not within the vicinity of the herd of origin and unexposed to lesser status swine may maintain qualified negative status by a monthly negative test of 10 percent or 60 head, whichever is less, of swine that have been on the premises for at least 30 days.

64.156(5) *Other qualified pseudorabies negative herds.* Any breeding herd in a Stage IV or V State/Area or an area outside the United States with a low incidence of pseudorabies equivalent to a Stage IV or V State/Area is recognized as a qualified pseudorabies negative herd.

64.156(6) *Fertility centers.* Breeding swine in a fertility center shall attain a “noninfected herd” status by an initial negative test of all breeding swine in the center. This status shall be maintained by a monthly negative test of a random sample of five head or 10 percent, whichever is greater, of the swine

at the center. All additions of swine to the fertility center must originate from a “noninfected” herd, must be placed in isolation for 30 days or more, and must test negative for pseudorabies 20 days or more after being isolated.

- a. Semen and germplasm must be identified to the fertility center of origin.
- b. Imported semen or germplasm must originate from a fertility center, or “noninfected” herd, with requirements at least equivalent to the above, and be identified to the fertility center.

21—64.157(166D) Herd cleanup plan for infected herds (eradication plan).

64.157(1) The herd cleanup plan shall be a written plan approved and on file with the department.

64.157(2) The herd cleanup plan shall contain:

- a. Owner’s name, location and herd number.
- b. Type of herd plan selected, e.g., offspring segregation, test and removal, depopulation.
- c. Description of the plan, which shall include the following requirements:
 - (1) The breeding herd shall be maintained on an approved vaccination program, at least four times per year;
 - (2) The progeny shall be weaned and segregated by five weeks of age or less, and progeny group isolation shall be maintained according to the terms of the herd plan;
 - (3) The herd must be visited on a regular basis (at least quarterly) by the herd veterinarian to monitor progress of the herd cleanup plan. This will include monthly testing if applicable, overseeing management procedures which may include all-in, all-out swine movement, ventilation, sanitation, disinfection, and vaccine handling;
 - (4) Vaccine shall be administered to the progeny swine at least once, or more often if required by the herd plan;
 - (5) Feeder pig movement or relocation from the premises of origin must be detailed in writing in the herd cleanup plan. Feeder pig movement or relocation from the premises of origin will only be allowed to approved premises and must be detailed in writing in the herd cleanup plan. Movement will not be allowed from the herd if the herd has experienced clinical symptoms of pseudorabies in the past 30 days. Effective April 19, 2000, all movements from infected premises shall be by restricted movement. “Movement” in this paragraph includes movement to a premises in the production system not in the vicinity of the current location, irrespective of whether there is a change of ownership;
 - (6) Culled breeding swine must move by restricted movement directly to slaughter (slaughtering plant or fixed concentration point) or to an approved premises in compliance with Iowa Code section 166D.10 as amended by 2000 Iowa Acts, Senate File 2312, section 16, and as detailed in the herd cleanup plan. No swine moved from infected herds may be represented as breeding swine;
 - (7) Herds identified as infected on or after August 1, 1999, with breeding swine, shall implement a test and removal herd cleanup plan which allows for the phased test and removal of bred animals for one farrowing cycle, followed by a whole herd test and removal plan. Effective August 1, 2000, a whole herd test and removal plan shall be implemented for all infected breeding herds. The herd plan shall include the following:
 1. All breeding swine, including boars, shall be tested within 14 days of the herd’s being classified as infected. Testing shall also include progeny, if applicable.
 2. All breeding swine must be identified by an approved ear tag, or other approved identification method, at the time of blood collection.
 3. Until August 1, 2000, all seropositive, unbred breeding swine must be removed from the herd by restricted movement, direct to slaughter (slaughtering plant or fixed concentration point), within 15 days after blood collection. All seropositive, bred swine must be removed from the herd by restricted movement, direct to slaughter (slaughtering plant or fixed concentration point), within 15 days of weaning. All replacement breeding stock must be vaccinated prior to addition into the herd and must be retested 60 days after entry into the herd. Effective August 1, 2000, all seropositive animals, bred or unbred, must be removed from the herd by restricted movement, direct to slaughter (slaughtering plant or fixed concentration point), within 15 days of the whole herd test. All known positive animals in the

herd on August 1, 2000, must be removed from the herd by restricted movement, direct to slaughter (slaughtering plant or fixed concentration point), by August 15, 2000.

4. A whole herd test shall be required within 30 days after the removal of the last known positive animal. Any additional seropositive animals must be removed from the herd by restricted movement, direct to slaughter, within 15 days of the collection date. Whole herd retests shall be required at 30-day intervals, with removal of positive animals within 15 days of the test, until it has been determined that the herd is noninfected.

5. Seropositive swine must be removed from the herd, by restricted movement, direct to a buying station or to a slaughtering establishment.

All swine movement from infected herds must be by restricted movement directly to slaughter or to an approved premises as detailed in the herd cleanup plan.

When a herd is designated a noninfected herd, or has been depopulated, by procedures detailed in Iowa Code section 166D.9, the plan is completed;

(8) Beginning October 1, 1999, a herd cleanup plan shall be implemented for all infected finishing herds which shall include the following:

1. A description of the premises, including the location, capacity, physical layout, owner's name, and herd number.

2. Vaccination requirements:

- Every animal, unless such animal is within three weeks of anticipated slaughter, must be vaccinated with an approved pseudorabies vaccine within seven days of notification by a regulatory official.

- New animals introduced into the infected premises are to be vaccinated with an approved pseudorabies vaccine according to the timetable outlined in the herd plan.

- If, through subsequent testing, additional buildings on the site are determined to be infected, all swine on the site shall be managed by all-in, all-out production.

3. Testing requirements:

- A minimum of 14 swine, selected randomly, per building, shall be tested immediately.

- Swine shall be retested, at a minimum of 14 animals, selected randomly, per building, every 45 days, if necessary, until the premises are determined to be noninfected.

4. Description, restrictions, and requirements of pig flow through the facilities.

5. All movements from infected finishing sites shall be by restricted movement and only to slaughter.

d. Specific movement limitations which may include approved destination locations, "restricted movement to slaughter," or other appropriate animal movement control measures.

e. Signatures of the herd owner, the owner's veterinarian, and the epidemiologist or the epidemiologist's representative.

64.157(3) Rescinded IAB 10/22/97, effective 10/1/97.

64.157(4) Rescinded IAB 10/22/97, effective 10/1/97.

64.157(5) If this herd cleanup plan is not followed, is discontinued, or is not progressing in a satisfactory manner as determined by the department, the herd is a quarantined herd and is subject to "restricted movement to slaughter," according to 2000 Iowa Acts, Senate File 2312, section 17, until a new and approved cleanup plan is in place and showing progress according to a designated epidemiologist.

64.157(6) Rescinded IAB 10/22/97, effective 10/1/97.

64.157(7) A deviation from a herd cleanup plan may be used in exigent circumstances if the deviation has the approval, in writing, of the epidemiologist and the state veterinarian.

21—64.158(166D) Feeder pig cooperator plan for infected herds.

64.158(1) A feeder pig cooperator plan shall be a written plan approved and on file with the department.

64.158(2) Feeder Pig Cooperator Plan Agreement—revised effective April 1, 1995.

Feeder Pig Cooperator Plan Agreement—Revised

Date:

Herd I.D. Number:

Owner's Name:

Address:

Telephone Number:

The Feeder Pig Cooperator Plan Agreement shall include the following:

1. The herd has not experienced clinical signs of pseudorabies within the previous 30 days.
2. Maintain the breeding herd on an approved vaccination program, at least four times per year.
3. Wean and segregate progeny by five weeks of age or less and maintain progeny group isolation until moved as feeder pigs.
4. The herd must be visited at least quarterly by the herd veterinarian to monitor progress of herd cleanup plan; this shall include quarterly testing, if applicable, overseeing management procedures including all-in, all-out swine movement, ventilation, animal waste handling, sanitation, disinfection and vaccine handling.
5. Feeder pigs may be marketed or moved intrastate as cooperator pigs by restricted movement to approved premises detailed in the herd cleanup plan provided that all requirements of this plan are followed.
6. All feeder pigs must be vaccinated prior to sale. Vaccine shall be administered according to individual's herd plan.
7. All feeder pigs must be identified prior to sale with an official pink feeder pig ear tag, or a tattoo, approved by the department, beginning with the letters PR. All movement of feeder pigs from the herd shall be by restricted movement and only be allowed to approved premises detailed in the herd cleanup plan. All feeder pigs are quarantined to farm of destination until sold to slaughter. Movement to slaughter must be by restricted movement.
8. Breeding swine shall move directly to slaughter, or an approved premises in compliance with Iowa Code section 166D.10 as amended by 2000 Iowa Acts, Senate File 2312, section 16, and as detailed in the herd cleanup plan, and by restricted movement. No swine from infected herds may be represented as breeding swine.
9. The producer shall maintain a record of all test charts, all sales transactions by way of health certificates or restricted movement permits, and vaccine purchases for at least two years. These records shall be available to department officials upon request.
10. When this herd is determined, through procedures as detailed in Iowa Code section 166D.9, to become a noninfected herd or is depopulated, the plan is completed.
11. I agree, if this plan is not followed, is discontinued, or is not progressing in a satisfactory manner as determined by the department, the herd is a quarantined herd and subject to restricted movement, direct to slaughter or to an approved premises.

I am currently enrolled in an approved herd cleanup plan. I further agree to comply with all the requirements contained in this Feeder Pig Cooperator Plan Agreement.

Herd Owner:

Date:

Herd Veterinarian:

Date:

21—64.159(166D) Herds of unknown status. Feeder pigs from herds of unknown status may not move after September 30, 1993; however, these herds may test to determine status and feeder pigs may be moved according to 64.156(1), 64.156(2), 64.156(3), 64.157(3), or 64.158(2).

The owner must provide test data, prior to movement, proving that these requirements have been met.

21—64.160(166D) Approved premises. The purpose of an approved premises is to maintain feeder swine and feeder pigs under quarantine with movement either direct to slaughter or to another approved premises. Effective June 1, 2000, all swine moved or relocated from an infected herd on an approved

herd cleanup plan may only move by restricted movement to an approved premises for further feeding or to slaughter (slaughtering plant or fixed concentration point).

64.160(1) The following are requirements establishing, renewing, or revoking an approved premises permit:

a. A permit application, as part of the herd cleanup plan, must indicate the name of the premises operator and address of the premises.

b. To be valid, an approved premises must be detailed as part of a herd cleanup plan and approved by a department or inspection service official certifying that the facility meets the following guidelines:

(1) Must be a dry lot facility located in an area of confirmed cases of pseudorabies.

(2) Shall not be in the vicinity of a breeding herd. Effective June 1, 2000, an approved premises shall not be located in a county designated as in Stage III of the national pseudorabies eradication program, nor shall it be located in a county which has achieved 0 percent prevalence of pseudorabies infection among all herds in the county as of March 1, 2000, or later. Effective August 1, 2000, an approved premises shall not be located within one and one-half miles of a noninfected herd or three miles of a qualified negative herd.

(3) Shall be built such that it can be thoroughly cleaned and disinfected.

(4) The lay of the land or the facilities shall not be conducive to animal waste draining onto adjacent property.

(5) Only feeder swine and cull swine may be moved onto this premises. Boars and sows are to be maintained separate and apart.

(6) Swine on the premises must be maintained in isolation from other livestock.

c. The permittee must provide to the department or inspection service, during normal business hours, access to the approved premises and to all required records. Records of swine transfers must be kept for at least one year. The records shall include information about purchases and sales, names of buyers and sellers, the dates of transactions, and the number of swine involved with each transaction.

d. Swine must be vaccinated for pseudorabies according to the herd cleanup plan. Vaccination records must be available for inspection during normal business hours.

e. Dead swine must be disposed of in accordance with Iowa Code chapter 167. The dead swine must be held so as to prevent animals, including wild animals and livestock, from reaching the dead swine.

f. Swine must be moved direct to slaughter or to another approved premises by restricted movement and as detailed in the herd cleanup plan.

g. An approved premises permit may be revoked by following quarantine release methods as detailed in Iowa Code section 166D.9, or failure to comply with departmental operation rules, or if swine have been removed from the premises for a period of 12 or more months.

h. Renewal of an approved premises will not be permitted when:

(1) The approved premises is not compliant with the requirements of this rule.

(2) Federal law prohibits approved premises.

(3) The approved premises no longer is part of an approved herd cleanup plan, or the county where the approved premises is located no longer allows approved premises or the site of the approved premises no longer complies with requirements.

i. Revocation of an approved premises will result in the issuance of a quarantine by the department effective until quarantine release methods have been followed as detailed in Iowa Code section 166D.9, or the approved premises has been depopulated by restricted movement to slaughter or to another approved premises as detailed in the herd cleanup plan.

64.160(2) An approved premises will be considered permitted as long as the approved premises is compliant with all regulations and is part of an approved herd cleanup plan.

21—64.161(166D) Sales to approved premises. After June 1, 2000, all feeder pigs and cull swine except those from “noninfected herds” must be moved directly to an approved premises by restricted movement for further feeding; however, these pigs may continue to move as cooperator pigs if a “Feeder

Pig Cooperator Plan Agreement—Revised” is approved by the department and movement is permitted by the department.

21—64.162(166D) Certification of veterinarians to initiate approved herd cleanup plans and approved feeder pig cooperator plan agreements and fee basis.

64.162(1) Requirements for certification. To be certified, the veterinarian shall meet both of the following requirements:

- a. Be an accredited veterinarian.
- b. Attend and complete continuing education sessions as determined by the Iowa pseudorabies advisory committee and the department.

64.162(2) Responsibilities. A certified veterinarian is authorized to do the following:

- a. Complete and submit herd plan and herd agreement forms (supplied by the department) within ten days of completion for approval by the department.
- b. Review and update herd plans and herd agreements and report to the department any changes made.

64.162(3) Revocation of certification. Failure to comply with the above requirements of this rule will result in revocation of certification.

64.162(4) Remuneration. Compensation will be made to the veterinarian or veterinarians certified to initiate herd plans and herd agreements. Payment will be made from pseudorabies program funds, if available and authorized for these purposes. Fees for payment shall be approved by the advisory committee and established by the department by order. Payment will be made for the following:

- a. Initial herd cleanup plan with or without an accompanying feeder pig cooperator agreement. Payment will be made upon submission of the completed form and department approval of the plan.
- b. Review of herd cleanup plan. Payment will be made upon submission of the completed form and department approval of the plan review.
- c. Upon completion of the herd cleanup plan and release of the infected status, the veterinarian will receive a payment.
- d. All other herd consultation or time devoted to herd plan implementation shall be at owner's expense.

64.162(5) Fee basis. The following fees are allocated to the testing veterinarian when approved by the department, provided funding is available:

- a. Herd stop fee per stop not to exceed four stops per year.
- b. Bleeding fee per animal, not to exceed 100 tests per herd, per year.
- c. Differentiable vaccine reimbursement per dose, when dispensed during the first 24 months from the date of initial program area designation. Doses of pseudorabies differentiable vaccine are dispensed to infected herds on approved cleanup plans, based upon date of herd plan approval, according to the number of breeding swine.
- d. Fees for additional herd stops and tests may be allocated by approval from the department.

21—64.163(166D) Nondifferentiable pseudorabies vaccine disapproved. Transferred and amended, see 21—64.152(163,166D), IAB 8/19/92.

These rules are intended to implement Iowa Code chapters 163 and 166D.

21—64.164 to 64.169 Reserved.

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PARATUBERCULOSIS (JOHNE'S) DISEASE

21—64.170(165A) Definitions. Definitions used in rules 21—64.170(165A) through 21—64.178(165A) are as follows:

“Accredited veterinarian” means a veterinarian approved by the deputy administrator of veterinary services, Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), and the state veterinarian in accordance with Part 161 of Title 9, Chapter 1 of the Code of Federal Regulations, revised as of January 1, 2000, to perform functions required by cooperative state-federal animal disease control and eradication programs.

“Approved laboratory” means an American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory or the National Veterinary Services Laboratory, Ames, Iowa. An approved laboratory must have successfully passed the Johne's diagnostic proficiency test in the previous year.

“Certificate” means an official document that is issued at the point of origin by a state veterinarian, federal animal health official, or accredited veterinarian and contains information on the individual identification of each animal being moved, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, and any other information required by the state veterinarian.

“Designated epidemiologist” means a veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the state veterinarian.

“Individual herd plan” means a written herd management plan that is designed by the herd owner, the owner's veterinarian, if requested, and a designated epidemiologist to identify and control paratuberculosis in an affected herd. The individual herd plan may include optional testing.

“Paratuberculosis-affected animal” means an animal which has reacted positively to an organism-based detection test conducted by an approved laboratory.

“Permit” means an official document for movement of affected or exposed animals that is issued by the state veterinarian, USDA Area Veterinarian-in-Charge, or accredited veterinarian.

“State” means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Guam.

21—64.171(165A) Supervision of the paratuberculosis program. The state veterinarian’s office will provide supervision for the paratuberculosis program.

21—64.172(165A) Official paratuberculosis tests. Organism-based detection tests will be considered as official paratuberculosis tests. These tests include, but are not limited to, Polymerase Chain Reaction (PCR) tests and bacteriological culture.

21—64.173(165A) Vaccination allowed. Vaccination against paratuberculosis is allowed with the permission of the state veterinarian. The herd owner requesting vaccination of the herd must sign and follow a paratuberculosis herd control plan consisting of best management practices designed to prevent the introduction of and control the spread of paratuberculosis. A risk assessment may be included as part of the herd control plan. The herd owner shall submit animal vaccination reports to the department on forms provided by the department.

21—64.174(165A) Herd plan. The herd owner, the owner’s veterinarian, if requested, and the designated epidemiologist may develop a plan for preventing the introduction of and controlling the spread of paratuberculosis in each affected herd.

21—64.175(165A) Identification and disposal requirements. Affected animals must remain on the premises where they are found until they are permanently identified by an accredited veterinarian applying a C-punch in the right ear of the animal. Affected animals may be moved only for the purpose of consigning the animal to slaughter.

21—64.176(165A) Segregation, cleaning, and disinfecting. Positive animals, consigned to slaughter through a state-federal approved auction market, must be maintained separate and apart from noninfected animals. Positive animals must be the last class of animal sold. Cleaning and disinfection of the alleyways, pen(s) and sale ring used to house positive animals must be accomplished prior to the next scheduled sale. Affected animals entering slaughter marketing channels must be moved directly to the slaughter facility or the slaughter market concentration point. Transportation vehicles used to haul affected animals shall be cleaned and disinfected after such use and before transporting any additional animals.

21—64.177(165A) Intrastate movement requirements.

64.177(1) Animals that are positive to an official paratuberculosis test may be moved from the farm of origin for slaughter only if the animals are moved directly to a recognized slaughtering establishment and accompanied by an owner-shipper statement that identifies the animals as positive to an official paratuberculosis test and the statement is delivered to the consignee. Positive animals shall be identified prior to movement by application of a C-punch in the right ear of the animal.

64.177(2) Animals that are positive to an official paratuberculosis test may be moved within Iowa for slaughter and consigned to a state-federal approved slaughter market if the animals are accompanied by an owner-shipper statement that identifies the animals as positive to an official paratuberculosis test and the statement is delivered to the consignee. Positive animals shall be identified prior to movement by application of a C-punch in the right ear of the animal.

64.177(3) Animals that are positive to an official paratuberculosis test may be moved within Iowa for purposes other than slaughter only by permit from the state veterinarian.

21—64.178(165A) Import requirements.

64.178(1) Animals that are positive to an official paratuberculosis test may be imported into Iowa for slaughter if the animals are moved directly to a recognized slaughtering establishment and accompanied by an owner-shipper statement that identifies the animals as positive to an official paratuberculosis test and the statement is delivered to the consignee. All animals must be officially identified.

64.178(2) Animals that are positive to an official paratuberculosis test may be imported into Iowa for slaughter and consigned to a state-federal approved slaughter market if the animals are accompanied by an owner-shipper statement that identifies the animals as positive to an official paratuberculosis test and the statement is delivered to the consignee. Positive animals shall be identified at the market, prior to sale, by application of a C-punch in the right ear of the animal.

64.178(3) Animals that are positive to an official paratuberculosis test may be imported into Iowa for purposes other than slaughter only by permit from the state veterinarian.

21—64.179 to 64.184 Reserved.

These rules are intended to implement Iowa Code Supplement chapter 165A.

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LOW PATHOGENIC AVIAN INFLUENZA (LPAI)**21—64.185(163) Definitions.** Terms used in these rules are defined as follows:

“Affected poultry flock” means a poultry flock from which any animal has been diagnosed as infected with LPAI and which is not in compliance with the provisions of the control program for LPAI as described in this chapter.

“Approved laboratory” means the Iowa State University Veterinary Diagnostic Laboratory, Ames, Iowa, or other American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory, including the National Veterinary Services Laboratory, Ames, Iowa.

“Designated epidemiologist” means a state veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the state veterinarian.

“House/housing facilities” means the individual barn that houses the poultry.

“Individual flock plan” means a written flock management and testing plan that is designed by the flock owner, the owner’s veterinarian, if requested, and a designated epidemiologist to identify and eradicate LPAI from an affected or exposed flock and to prevent the spread of the disease to an adjacent flock.

“Low pathogenic avian influenza (LPAI)” means an infectious, contagious disease of poultry caused by Type A influenza virus. For the purposes of these rules, LPAI shall include only subtypes identified as H5 or H7.

“LPAI affected” means a designation applied to poultry diagnosed as infected with LPAI based on laboratory results, clinical signs, or epidemiologic investigation.

“LPAI suspect” means a designation applied to poultry for which laboratory evidence or clinical signs suggest a diagnosis of LPAI but for which laboratory results are inconclusive.

“Monitored LPAI poultry flock” means a flock of poultry that is in compliance with the surveillance and testing procedures set forth in these rules.

“Official avian influenza test” means an approved test conducted at a laboratory approved to diagnose avian influenza.

“Poultry” means commercial egg-laying and meat-producing chickens and commercial turkeys. “Poultry” also means breeder flocks.

“Poultry flock” means a group of poultry, generally of the same age, that are hatched, housed, managed, and sold together as one unit.

“Quarantine” means an imposed restriction prohibiting movement of poultry to any location without specific written permits.

“Slaughter/disposal” means the removal or depopulation of the poultry flock.

21—64.186(163) Supervision of the low pathogenic avian influenza program. The state veterinarian's office shall provide oversight and supervision of the LPAI program in Iowa.

21—64.187(163) Surveillance procedures. Surveillance procedures shall only apply to commercial poultry flocks of 10,000 or more layers, commercial chicken broiler operations with 10,000 or more broilers, and commercial turkey operations with 1,000 or more turkeys. Breeders that participate in, and qualify under, the USDA, APHIS, NPIP U.S. Avian Influenza Clean Program meet or exceed the surveillance provisions of this plan and are exempt from further certification under this rule. For poultry flocks, surveillance procedures shall include the following:

64.187(1) Turkeys and turkey poults.

a. Preslaughter/movement testing. A minimum of 15 blood samples may be collected and forwarded to an approved laboratory for LPAI testing within 21 days prior to depopulation or movement; or

b. Slaughter/disposal testing. Twenty blood samples shall be collected at slaughter/disposal and forwarded to an approved laboratory for LPAI testing.

c. Sick flock testing. Twenty blood samples shall be collected between 10 days and 21 days after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing, and 20 pharyngeal swabs shall be collected at onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

d. Routine serologic testing. A test for LPAI should be included.

64.187(2) Laying chickens and pre-lay pullets.

a. Preslaughter/disposal/movement testing. Fifteen blood samples shall be collected and forwarded to an approved laboratory for LPAI testing within 30 days prior to depopulation or disposal of spent hens or movement of pre-lay pullets to another farm.

b. Sick flock testing. Twenty blood samples shall be collected between 10 days and 21 days after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing, and 20 pharyngeal swabs shall be collected at onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

c. Routine serologic testing. A test for LPAI should be included.

64.187(3) Broiler chickens.

a. Preslaughter testing. Twenty blood samples may be collected and forwarded to an approved laboratory for LPAI testing within 21 days prior to depopulation; or

b. Slaughter/disposal testing. Twenty blood samples shall be collected at slaughter/disposal and forwarded to an approved laboratory for LPAI testing.

c. Sick flock testing. Twenty blood samples shall be collected between 10 days and 21 days after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing, and 20 pharyngeal swabs shall be collected at onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

d. Routine serologic testing. A test for LPAI should be included.

21—64.188(163) Official LPAI tests. Official tests for LPAI are:

1. Agar Gel Precipitin (AGP);
2. Enzyme Linked Immunosorbent Assay (ELISA);
3. Any other tests performed by an approved laboratory to confirm a diagnosis of LPAI.

Tests positive to screening for avian influenza through AGP, ELISA, and any other tests performed by an approved laboratory to confirm a diagnosis of LPAI must be forwarded to National Veterinary Services Laboratory, Ames, Iowa, for subtype testing.

4. Influenza type A antigen detection tests approved by the state veterinarian. All influenza type A antigen detection tests performed shall be prior-approved by the state veterinarian, and all positive tests results shall be reported immediately to the state veterinarian. A monthly report of all test results shall be reported to the state veterinarian.

21—64.189(163) Investigation of LPAI affected poultry identified through surveillance. All poultry diagnosed at an approved laboratory as infected with LPAI must be traced back to the flock or farm of origin.

All flocks having contact with affected or exposed poultry as determined by the designated epidemiologist must be investigated epidemiologically. All farms of origin and flocks having contact with affected or exposed poultry must be quarantined, pending the results of the epidemiological investigation.

21—64.190(163) Duration of quarantine. Quarantines imposed in accordance with these rules shall be in effect for a minimum of three months after the last detection of active avian influenza virus on the premises. Active avian influenza virus on the premises will be determined through the use of sentinel poultry or virus isolation.

21—64.191(163) Flock plan.

64.191(1) The flock owner, the owner's veterinarian, if requested, and the epidemiologist shall develop a plan for eradicating LPAI in each affected flock. The plan must be designed to reduce and then eliminate LPAI from the flock, to prevent spread of the disease to other flocks, and to prevent reintroduction of LPAI after the flock becomes disease-free. The flock plan must be developed and signed within 15 days after the determination that the flock is affected.

64.191(2) The flock plan will include, but is not limited to, the following areas:

- a. Movement of vehicles, equipment, and people on and off the premises.
- b. Cleaning and disinfection of vehicles entering and leaving the premises.
- c. Proper elimination of daily mortality through composting on premises, incineration on premises, or other approved method.

- d. Biosecurity procedures for people entering or leaving the facility.

- e. Controlled marketing.

(1) No poultry may be removed from the premises for a minimum of 21 days after the last detection of active avian influenza virus on the premises. Immune flocks that have recovered from avian influenza infection may remain on the premises for the remainder of their scheduled life span.

(2) After 21 days, poultry marketing will only be allowed for delivery to slaughter establishments at the close of business for the week.

(3) Routes used to transport poultry to slaughter must avoid other poultry operations.

(4) Trucks used to transport poultry from an infected premises must be cleaned and disinfected and may not enter another poultry facility for at least 24 hours.

(5) Eggs which are washed, sanitized, and packed in new materials may be moved into normal marketing channels, but trucks hauling these eggs must not visit another premises between the production site and the market. Egg handling materials must be destroyed at the plant or cleaned, sanitized, and returned to the premises of origin without contacting materials going to other premises. Disposable egg flats or sanitized, plastic flats must be used to transport eggs.

(6) Eggs that are sold as "nest run" and are not washed and sanitized must be moved directly to only an "off-line" breaking operation for pasteurization and used for breaking only. The egg handling materials must be handled as described in (5) above.

(7) Liquid eggs from layer flocks may continue to move from breaking operations directly to pasteurization plants provided that the transport vehicles are cleaned and disinfected before entering and leaving the premises.

f. Vaccination. Avian influenza vaccine will be considered for use only if allowed by the state veterinarian and USDA APHIS.

(1) Killed H5 or H7 vaccine may be used to immunize all noninfected poultry remaining on the premises. Laying-flock replacement poultry should be vaccinated at least two weeks before entering the laying operation.

(2) Twenty sentinel (nonvaccinated) poultry will be kept in each vaccinated flock, and all 20 will be tested for avian influenza every 30 days.

(3) Avian influenza virus will be considered to be no longer active when all sentinel poultry are serologically negative on two consecutive tests conducted at least 14 days apart and when cloacal swabs from each of the 20 sentinel poultry are negative by virus isolation testing.

(4) Positive sentinel poultry must be euthanized and replaced by negative poultry after 14 days.

(5) Slaughter withdrawal times must be followed in the marketing of poultry.

g. Housing facilities and manure. Before a new flock is placed in an infected house, manure must be removed and the housing facilities must be cleaned and disinfected. Manure shall not be removed from the premises for a minimum of 30 days after the last active detection of avian influenza virus in a house. Manure from infected housing facilities must be carried in covered conveyances, and transportation routes must avoid other poultry operations. Manure handling and disposal will be at the direction of the state veterinarian.

h. Wild bird, insect, and rodent control. Wild bird, insect, and rodent control programs must be implemented on the premises before a facility is repopulated with poultry. Rodenticide must be set out before feed or birds are removed from the premises.

64.191(3) The plan must address flock management and be in compliance with all provisions of these rules. The plan must be formalized as a memorandum of agreement between the owner and program officials, must be approved by the state veterinarian, and must include plans to obtain a disease-free status.

21—64.192(163) Cleaning and disinfecting. The housing facilities must be cleaned and disinfected under state supervision within 15 days after affected poultry and manure have been removed.

21—64.193 to 64.199 Reserved.

These rules are intended to implement Iowa Code chapter 163.

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SCRAPIE DISEASE

21—64.200(163) Definitions. Definitions used in rules 21—64.200(163) through 21—64.211(163) are as follows:

“Accredited veterinarian” means a veterinarian approved by the administrator of the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), and the state veterinarian in accordance with Part 161 of Title 9, Chapter 1 of the Code of Federal Regulations (CFR), to perform functions required by cooperative state-federal animal disease control and eradication programs.

“Administrator” means the administrator of APHIS or any employee of USDA to whom the administrator has delegated authority to act on behalf of the administrator.

“Animal” means any sheep or goat.

“APHIS representative” means an individual employed by the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) in animal health activities who is authorized by the administrator to perform the functions and duties involved.

“Approved laboratory” means a diagnostic laboratory approved by APHIS to conduct tests for scrapie or genotypes on one or more tissues.

“Area veterinarian-in-charge” or *“AVIC”* means the veterinary official of APHIS assigned by APHIS to supervise and perform the official animal health work of APHIS in Iowa.

“Breed associations and registries” means the organizations that maintain the permanent records of ancestry or pedigrees of animals (including each animal’s sire and dam), individual identification of animals, and ownership of animals.

“Certificate of Veterinary Inspection” or *“CVI”* means an official document approved by the department and issued by a licensed accredited veterinarian at the point of origin of movement of animals.

“Commingle” means to group animals together in a manner that allows them to have physical contact with each other, including contact through a fence, but not limited contact. Commingling includes sharing the same section in a transportation unit where physical contact can occur.

“Designated scrapie epidemiologist” or *“DSE”* means a state or federal veterinarian designated by the department and APHIS to make decisions about the use and interpretation of diagnostic tests and field investigation data and the management of flocks and animals of epidemiological significance to the scrapie program.

“Directly to slaughter” means movement from a farm to a place of business where animals are processed into meat, excluding movement through an auction market or livestock dealer’s place of business.

“Exposed animal” means any animal that has had contact with a scrapie-positive animal or had contact with a premises where a scrapie-positive animal has resided and for which a flock plan has not yet been completed. Exposed animals shall be evaluated by a state or federal veterinarian in concurrence with the DSE and state veterinarian and may be redesignated into a risk category according to genetic resistance and exposure and may be restricted or have restrictions removed in accordance with current USDA regulations.

“Exposed flock” means any flock in which:

1. A scrapie-positive animal was born or gave birth; or
2. A high-risk or suspect female animal currently resides; or
3. A high-risk or suspect animal once resided that gave birth or aborted in the flock and from which tissues were not submitted for official scrapie testing.

“Flock” means a group of sheep or goats, or a mixture of both species, residing on the same premises or under common ownership or supervision on two or more premises with animal interchange between the premises. Changes in ownership of part or all of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock.

“Flock identification number” or *“flock ID number”* means the unique alphanumeric premises identification number that appears on the official identification issued to a flock, that conforms with the standards for an epidemiologically distinct premises, as outlined in 9 CFR 79.1, and that is assigned by USDA and approved by the department.

“Flock of origin” means the flock of birth for male animals and, for female animals, means the flock in which the animal most recently resided in which it either was born, gave birth, or resided during lambing or kidding.

“Flock plan” means a written flock management agreement signed by the owner of a flock, the accredited veterinarian, if one is employed by the owner, and a department or APHIS representative in which each participant agrees to undertake actions specified in the flock plan to control the spread of scrapie from, and eradicate scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or exposed animal. As part of a flock plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the flock plan. The flock plan must include the requirements in 9 CFR 54.8.

“Genetic susceptibility” means the animal’s likelihood, based upon the genotype of the animal, of developing scrapie following exposure to scrapie.

“High-risk animal” means:

1. Any exposed female animal designated as genetically susceptible under current USDA guidelines;
2. The female offspring of a scrapie-positive female animal; or
3. Any other exposed female animal determined by the DSE to be a potential risk.

“Infected flock” means any flock in which the DSE has determined that a scrapie-positive female animal has resided, unless an epidemiological investigation conducted by the DSE shows that the animal did not give birth or abort in the flock.

“Interstate commerce” means trade, traffic, transportation, or other commerce between a place in a state and any place outside that state, or between points within a state but through any place outside that state.

“Limited contact” means incidental contact between animals away from the flock’s premises, such as at fairs, shows, exhibitions, markets, and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations. Embryo transfer and artificial insemination equipment and surgical tools must be sterilized after each use in order for the contact to be considered limited contact. Limited contact does not include any contact with a female animal during or up to 30 days after she gave birth or aborted or when there is any visible vaginal discharge other than that associated with estrus. Limited contact does not include any activity in which uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or residing in other flocks for breeding or other purposes, except as allowed by scrapie flock certification program standards.

“Live-animal screening test” means any test used for the diagnosis of scrapie in a live animal, approved by APHIS, and conducted in a laboratory approved by APHIS.

“Noncompliant flock” means:

1. Any source or infected flock whose owner declines to enter into a flock plan or postexposure management and monitoring plan (PEMMP) agreement within 60 days of the flock’s being designated as a source or infected flock;

2. Any exposed flock whose owner fails to make animals available for testing within 60 days of notification, or as mutually agreed upon by the department and the owner, or whose owner fails to submit required postmortem samples;

3. Any flock whose owner or manager has misrepresented, or who employs a person who has misrepresented, the scrapie status of an animal or has misrepresented any other information on a certificate, permit, owner statement, or other official document within the last five years;

4. Any flock whose owner or manager has moved, or who employs a person who has moved, an animal in violation of this chapter within the last five years; or

5. Any flock which does not meet the requirements of a flock plan or PEMMP.

“Official genotype test” means any test used to determine the genotype of a live or dead animal and conducted at an approved laboratory provided that the animal is officially identified and the samples used for the test are collected and shipped to the laboratory by either an accredited veterinarian or a department or APHIS representative.

“Official identification” or *“official ID”* means identification approved by the department and APHIS for use in the scrapie eradication program in the state of Iowa. For sheep, official identification consists of (1) approved ear tags which include the flock ID number combined with an individual animal number; (2) approved unique, alphanumeric serial-numbered ear tags; or (3) ear tags approved for use with the scrapie flock certification program. For goats, official identification consists of any method of identification approved by the USDA, as outlined in 9 CFR 79.2.

“Official test” means any test used for the diagnosis of scrapie in a live or dead animal, approved by APHIS for that use, and conducted at an approved laboratory.

“Owner” means a person, partnership, company, corporation, or any other legal entity which has legal or rightful title to animals.

“Owner/seller statement form” means a written document to be completed by the owner or seller of animals that require official identification and includes the owner’s/seller’s name, address, and telephone number; date of transaction; the flock identification number; the number of animals involved; a statement indicating that the animals that require official identification have been officially identified and that the owner/seller will maintain records as to the origin of the individual animals for five years; and a signed owner statement.

“Owner statement” means a statement signed by the owner certifying that the sexually intact animals are not scrapie-positive, suspect, high-risk, or exposed and that they did not originate from an infected, source, exposed, or noncompliant flock.

“Permit” means an official document that has been issued by an APHIS or department representative or an authorized accredited veterinarian and allows the interstate movement of animals under quarantine. A seal may be required by the state veterinarian or AVIC.

“Postexposure management and monitoring plan” or *“PEMMP”* means a written agreement signed by the owner of a flock, an accredited veterinarian, if one is employed by the owner, and a department or APHIS representative in which each participant agrees to undertake actions specified in the agreement to reduce the risk of the occurrence of scrapie and to monitor for the occurrence of scrapie in the flock for at least five years after the last high-risk or scrapie-positive animal is removed from the flock or after the last exposure of the flock to a scrapie-positive animal, unless the monitoring time is otherwise specified by a department or APHIS representative. As part of a postexposure management and monitoring plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the plan. The plan must include the requirements in 9 CFR 54.8.

“Premises” means the ground, area, buildings, and equipment occupied by one or more flocks of animals.

“Quarantine” means an imposed restriction prohibiting movement of animals to any location without specific written permits.

“Scrapie” means a nonfebrile, transmissible, insidious degenerative disease affecting the central nervous system of sheep and goats.

“Scrapie eradication program” or *“program”* means the cooperative state-federal-industry program administered by APHIS and states to control and eradicate scrapie.

“Scrapie flock certification program” or *“SFCP”* means a voluntary state-federal-industry cooperative program established and maintained to reduce the occurrence and spread of scrapie, to identify flocks that have been free of evidence of scrapie over specified time periods, and to contribute to the eventual eradication of scrapie. This program was formerly known as the voluntary scrapie flock certification program.

“Scrapie-positive animal” or *“positive animal”* means an animal for which a diagnosis of scrapie has been made by an approved laboratory through one of the following methods:

1. Histopathological examination of central nervous system (CNS) tissues from the animal for characteristic microscopic lesions of scrapie;
2. The use of protease-resistant protein analysis methods, including but not limited to immunohistochemistry or western blotting, on CNS or peripheral tissue samples from a live or a dead animal for which a given method has been approved by the administrator for use on that tissue;
3. Bioassay;
4. Scrapie-associated fibrils (SAF) detected by electron microscopy; or
5. Any other test method approved by the administrator in accordance with 9 CFR 54.10.

“Source flock” means a flock in which a department or APHIS representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 72 months or less.

“State animal health official” means an individual employed by the department in animal health activities and authorized by the department to perform the functions involved.

“Suspect animal” means:

1. A sheep or goat that exhibits any of the following possible signs of scrapie and that has been examined by an accredited veterinarian or a department or APHIS representative. Possible signs of scrapie include: weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high-stepping gait of forelimbs, bunny hop movement of rear legs, or swaying of back end; increased sensitivity to noise and sudden movement; tremor, star gazing, head pressing, recumbency, or other signs of neurological disease or chronic wasting;
2. A sheep or goat that has tested positive for scrapie or for the protease-resistant protein associated with scrapie on a live-animal screening test, or any other official test, unless the animal is designated as a scrapie-positive animal; or
3. A sheep or goat that has tested inconclusive or suggestive of scrapie on an official test for scrapie.

“Trace” means all actions required to identify the flock of origin or flock of destination of an animal.

“Unofficial test” means any test used for the diagnosis of scrapie or for the detection of the protease-resistant protein associated with scrapie in a live or dead animal but that either has not been approved by APHIS or was not conducted at an approved diagnostic laboratory.

“Veterinary signature-stamped bill of sale” means a document allowed in Iowa in lieu of a Certificate of Veterinary Inspection for use when animals are sold through a licensed auction market and will remain in Iowa. The bill of sale shall contain the following statement: “I certify, as an accredited veterinarian, that these animals have been inspected by me and that they are not showing any signs of infectious, contagious, or communicable diseases (except where noted).” The signature of the veterinarian who inspected the animals at the sale must appear on the document.

21—64.201(163) Supervision of the scrapie eradication program. The scrapie eradication program is a cooperative program between the department and APHIS and is supervised by full-time animal health veterinarians employed by the state or federal government.

21—64.202(163) Identification. Animals required to be officially identified shall have official identification applied upon, or before, departure from the current flock of origin by the flock owner or the owner’s agent. An animal that already has identification recognized as official for Iowa does not need to have any additional official identification applied. If an animal was not identified prior to departing from its flock of birth or if its identification has been lost, then the animal must be identified upon, or before, departing from the current flock in which the animal resides and the flock of birth, or previous flock of origin, should be recorded, if known. No person shall apply a flock ID tag to an animal that has not resided in that flock. If a sexually intact animal that requires official identification is of uncertain origin or if the animal is identified with a blue metal “meat only” tag or a red or yellow tag denoting exposure or test status, then the animal may not be used for breeding and must be restricted until slaughter. Animals that require official identification and enter the state of Iowa from other states must be identified with an identification that complies with 9 CFR 79.2. For sheep originating from out of state, ear tags that comply with 9 CFR 79.2 will be considered official identification in Iowa. For goats, either ear tags or tattoos that comply with 9 CFR 79.2 will be considered official identification in Iowa.

64.202(1) Sheep—official identification required. Sheep required to be officially identified include:

- a. All sexually intact sheep, unless specifically excluded in these rules;
- b. All sexually intact sheep for exhibition;
- c. All sheep over 18 months of age;
- d. All sheep residing in noncompliant flocks;
- e. All exposed, suspect, positive and high-risk sheep; and
- f. Sexually intact sheep of any age imported into Iowa, except as noted in 64.202(2).

64.202(2) Sheep—official identification not required. Sheep that do not require official identification include:

- a. Sheep under 18 months of age originating from outside the state of Iowa moving into an approved terminal feedlot, and any sheep under 18 months of age moving directly to slaughter;
- b. Wether sheep for exhibition, unless over 18 months of age; and
- c. Sheep moved for grazing or similar management reasons provided that the sheep are moved from a premises owned or leased by the owner of the sheep to another premises owned or leased by the owner of the sheep.

64.202(3) Goats—official identification required. Goats that require official identification include:

- a. Sexually intact goats that are registered, are used for exhibition, or have resided on the same premises with or been commingled with sheep, excluding limited contact;
- b. All goats residing in noncompliant flocks; and
- c. All exposed, suspect, positive and high-risk goats.

64.202(4) Goats—official identification not required. Goats that do not require official identification include:

- a. Goats under 18 months of age originating from outside the state of Iowa moving into an approved terminal feedlot, and any goats under 18 months of age moving directly to slaughter;
- b. Wether goats for exhibition;
- c. Goats raised and maintained apart from sheep and used exclusively for meat and fiber production;
- d. Pet goats raised and maintained apart from sheep and not registered or used for exhibition;
- e. Dairy goats raised and maintained apart from sheep and not registered or used for exhibition;
- and
- f. Goats moved for grazing or similar management reasons provided that the goats are moved from a premises owned or leased by the owner of the goats to another premises owned or leased by the owner of the goats.

NOTE: Official identification requirements for goats will become identical to those for sheep 90 days following the disclosure of a case of scrapie in Iowa goats that cannot be attributed to exposure to sheep.

21—64.203(163) Restrictions on the removal of official identification. No person may remove or tamper with any approved means of identification required to be on sheep or goats, unless the identification must be removed for medical reasons, in which case new official identification must be applied to the animal as soon as possible and prior to commingling that could result in the loss of identity of the animal. A record documenting the change of official identification must be made.

21—64.204(163) Records.

64.204(1) *Record-keeping requirements for owners.* Records on every animal that requires official ID shall be maintained for five years from the time the animal leaves the flock or dies. For animals not born in the flock, records must include the flock-of-origin number or the previous owner's name and address, date of acquisition, a description of the animal (sheep or goat, and breed or class), and flock of birth, if known. When official ID tags are applied, it is recommended that the owner correlate official ID with production records, such as lambing dates, for all breeding animals. The owner shall maintain a record of the name and address of the market or buyer, the date, the number of animals sold, and a description of the animals (sheep or goat, and breed or class) for all animals moved from the flock. The owner must supply the market or buyer with the owner's flock ID number. A Certificate of Veterinary Inspection (CVI), or a veterinary signature-stamped bill of sale for animals purchased through Iowa markets, is required for every change of ownership of animals in Iowa, other than for animals sold to slaughter. A copy of the CVI or veterinary signature-stamped bill of sale must be maintained for every animal purchased, and for every animal sold privately, other than to slaughter. For animals sold to slaughter, records must show the date of sale, number of animals sold, and where or to whom sold.

64.204(2) *Record-keeping requirements for auction markets.* Markets must collect a completed and signed owner/seller statement form from each seller presenting animals that require official identification or must post where animals are unloaded signs which state that "sexually intact sheep or goats that are known to be scrapie-positive, suspect, high-risk, or exposed, or that originated from a known infected, source, exposed, or noncompliant flock may not be unloaded or sold through this market." For animals identified by the market, the serial tag numbers applied to each seller's animals must be recorded. Animals that require official identification, but that cannot be identified to their flock of origin shall not be sold as breeding animals. Bill-of-sale records must indicate the seller or flock ID number(s) or serial tag numbers of the animals involved and will serve as documentation of the buyers of animals presented by any particular seller. The market must always record, either on the owner/seller statement form or separately, the following information on all sexually intact animals that require official identification: the seller's flock ID number or seller's name and address, the name or flock ID number of the owner of the flock of origin if different from the seller, and the buyer's name and address or buyer's flock ID number. All animals moving interstate must depart from the market with either a Certificate of Veterinary Inspection or slaughter affidavit; all animals remaining in Iowa must depart from the market with a Certificate of Veterinary Inspection, veterinary signature-stamped bill of sale, or slaughter affidavit. Certificates of Veterinary Inspection for animals moving interstate must contain the

statement set forth in 21—64.208(163). All of these documents must be made available for inspection upon request and maintained as official records for five years.

64.204(3) *Record-keeping requirements for licensed sheep dealers.* The dealer must either collect a completed and signed owner/seller statement form from the person from whom the dealer takes possession of the animals or must post signs as described in 64.204(2) if there is any possibility that the animals will move interstate, other than through slaughter channels. The dealer must always record, either on the owner/seller statement form or separately, the following information on all sexually intact animals that require official identification: the seller's flock ID number or seller's name and address and the name of the owner of the flock of origin, or flock-of-origin ID number, if different from the seller. For animals identified by the dealer, the serial tag number applied to each animal must be recorded. Animals that move interstate, other than to slaughter, must be inspected by a veterinarian and have a Certificate of Veterinary Inspection that includes the required statements as set forth in 21—64.208(163). All animals that do not go to slaughter must be inspected by a veterinarian and have a Certificate of Veterinary Inspection completed prior to sale, unless the animals are being sold at a licensed auction market where a veterinary inspection will occur. For animals that are taken to an auction market, the dealer must provide to the market for its records a list of all flock ID numbers or serial tag numbers in the group. For animals that are resorted and sold, records must identify all potential buyers of any animal acquired. Every effort should be made to maintain the identity of groups from the same flock, through separate penning or use of temporary ID, such as chalk marking, in order to simplify efforts to identify the final destination of individual animals. If animals are under 18 months of age and the dealer picks them up at the owner's premises and delivers them directly to slaughter, then the official identification requirement may be waived; however, a record of the transaction must be maintained. Records must document the buyer's name and address or buyer's flock-of-origin ID number, date of sale, and animals sold for all private sales or sales to slaughter, so that animals can be traced to their final destination. All records must be kept for five years and made available for inspection upon request.

21—64.205(163) Responsibility of persons handling animals in commerce to ensure the official identification of animals. Licensed sheep dealers and auction markets and those that provide transport must ensure that animals are properly identified upon taking possession of the animals. Animals lacking official ID must either be declined or be identified by the licensed dealer or market with official ID issued to the dealer or market immediately upon the dealer's or market's taking possession, and prior to commingling of the animals.

21—64.206(163) Veterinarian's responsibilities when identifying sheep or goats. Veterinarians may be called upon to officially identify animals and may be issued official identification for the animals in the form of the serial number ear tags for carrying out this duty. The veterinarian may apply the ID only if the flock-of-origin information is available. Sexually intact animals that require official identification and are of unknown origin shall not be used for breeding and must be restricted until slaughter. When animals are identified, the veterinarian applying the ID must record the serial tag number applied to each animal and the following information (this requirement may be accomplished by collecting a completed owner/seller statement form): the flock-of-origin ID number or name and address of the current owner, if different from the owner of the flock of origin, and the name and address of the buyer, if a change of ownership is occurring. The flock of birth should also be recorded, if known. These records must be kept for five years and made available for inspection upon request.

21—64.207(163) Flock plans. Infected and source flocks will be quarantined by the department upon the determination of their status. A written flock cleanup plan shall be signed by the owner of an infected or source flock, and the requirements set out in the plan shall be adhered to until its completion. The plan may consist of:

1. Whole flock depopulation;

2. The removal of genetically susceptible female animals, suspect animals, positive animals, and the female offspring of positive female animals; or

3. The removal of high-risk animals as defined in 9 CFR 79.4.

Indemnity may be paid for animals removed, if funds are available through USDA. All flock plans require cleaning and disinfecting procedures as part of the requirements. Upon completion of the flock plan, the quarantine may be released, with the approval of the DSE, and following an inspection of the premises by a state or federal animal health official. At that time, the owner is required to sign a post-exposure management and monitoring plan (PEMMP) and agree to the requirements set out in that plan. Exposed flocks may also be quarantined, or have other movement restrictions placed on them, and may require a PEMMP plan which is consistent with current USDA regulations.

21—64.208(163) Certificates of Veterinary Inspection. Certificates of Veterinary Inspection (CVIs) issued by licensed accredited veterinarians shall be obtained whenever animals change ownership, other than when animals are sold for slaughter, except as provided in this rule. For animals that require official identification, the CVI must include the individual official ID number(s) or the flock-of-origin ID number(s), the total number of animals, the purpose of the movement, the name and address of the consignor and consignee, and the points of origin and destination. CVIs for animals that will move interstate must additionally have the following signed owner statement: “I certify that the sexually intact animals represented on this form are not known to be scrapie-positive, suspect, high-risk, or exposed, and did not originate from a known infected, source, exposed, or noncompliant flock.” The veterinarian may sign the statement (which may be applied in stamp form) on behalf of the owner if a properly executed owner/seller statement form has been collected from the owner or if the animals are at a licensed auction market or a licensed dealer’s place of business where signs, which have been posted where animals are unloaded, state that “sexually intact sheep or goats that are known to be scrapie-positive, suspect, high-risk, or exposed, or that originated from a known infected, source, exposed, or noncompliant flock may not be unloaded or sold through this market.” The veterinarian should check with the state of destination for additional requirements. Animals sold other than to slaughter through state-licensed livestock markets but that will remain in Iowa may be released on either a Certificate of Veterinary Inspection or a veterinary signature-stamped bill of sale. A Certificate of Veterinary Inspection may be completed for sexually intact animals from an exposed flock in some circumstances, with the approval of the state veterinarian.

21—64.209(163) Requirements for shows and sales. Official identification is required for any sexually intact sheep or goat to be exhibited. Positive, suspect, sexually intact exposed, and high-risk animals may not be exhibited. Exposed animals that have been redesignated and had restrictions removed by the DSE according to USDA guidelines may attend shows and sales. Feeder/market class animals from an exposed flock that are not positive, suspect, exposed, or high-risk may be exhibited with the approval of the state veterinarian, provided that they are moved only to slaughter or returned to the premises of origin following the show.

64.209(1) Female animals over 12 months of age should be penned separately from female animals from other flocks when practical.

64.209(2) Female animals within 30 days of parturition, postpartum female animals, or female animals that have aborted or are pregnant and have a vaginal discharge must be kept separate from animals from other flocks so as to prohibit any direct contact. Any enclosures used to contain the female animals must be cleaned and disinfected.

21—64.210(163) Movement restrictions for animals and flocks. A sexually intact animal shall not be moved from an infected or source flock, except under permit. Permitted animals may be moved to slaughter, to a research or diagnostic facility, or to another facility as specified in the flock plan. High-risk, suspect, and sexually intact exposed animals from other than infected or source flocks will be placed under movement restrictions in accordance with 9 CFR 79.3. The movement restrictions on the flock and the criteria for release of these restrictions shall be specified as part of either the flock plan or

the postexposure management and monitoring plan. Animals from noncompliant flocks shall be placed under movement restrictions and shall be moved only by permit.

21—64.211(163) Approved terminal feedlots. Approved terminal feedlots allow purchasers of young sexually intact feeder animals from out of state to bring those animals into Iowa without official identification provided that the animals are restricted to an inspected and approved premises and all are delivered to slaughter by 18 months of age.

64.211(1) Requirements for approved terminal feedlots. All sexually intact animals of out-of-state origin that have arrived without official identification must be moved directly to slaughter by 18 months of age. Other sheep or goats that require official identification may be maintained on the premises provided that the requirements described herein are met. The approved terminal feedlot premises must be designated as either:

a. Feeder-only premises. Feeder-only premises may contain only feeder animals destined to slaughter by 18 months of age.

b. Breeding flock/slaughter-only premises. The breeding flock/slaughter-only premises allows a breeding flock to be maintained on the site. All offspring must be sent to slaughter by 18 months of age (except as noted below), and do not require official ID provided that the slaughter animals move directly to slaughter. Adult animals must be identified, and any of their offspring retained as replacement breeding stock must have official ID applied prior to weaning. Production, inventory, purchase, and sales records will be inspected on all breeding animals.

c. Separate operation premises. The separate operation premises allows animals other than the nonidentified feeder animals to be kept on site, and sold other than to slaughter, but these animals must be separated from the feeder animals by a distance of 30 feet or by a solid wall that prevents contact or the passage of fluids. Offspring must be identified prior to weaning. Records must account for the arrival and dispersal of each individual animal in the separate flock, and there shall be no identification exemption on these animals.

All three types of approved terminal feedlot premises require that all nonidentified feeder animals be moved directly to slaughter, or another approved terminal feedlot, prior to 18 months of age. These animals may only be sold through a licensed market or licensed dealer if the owner identifies sexually intact animals with official blue metal “meat only” tags, and the animals are sold to slaughter.

64.211(2) Identification at approved terminal feedlots. Out-of-state origin sexually intact feeder animals moved to an approved terminal feedlot will be exempted from identification requirements provided that the feedlot maintains compliance with all rules and regulations governing approved terminal feedlots.

64.211(3) Registration of approved terminal feedlots. All approved terminal feedlots must obtain a permit issued by the department. Approved terminal feedlots will be subject to periodic records and premises inspections. The department shall assign an approved terminal feedlot number for each approved terminal feedlot facility.

64.211(4) Records for approved terminal feedlots. All approved terminal feedlots must maintain appropriate records for a period of five years. Records will include Certificates of Veterinary Inspection for all animals of out-of-state origin received by the facility and slaughter records sufficient to conduct inventory reconciliation. If a breeding flock or any other sheep or goats that require official identification are maintained on the same premises, then records shall also include an inventory of animals, lambing and kidding records, bills of sale, slaughter receipts, and any Certificates of Veterinary Inspection sufficient to account for the acquisition and dispersal of all animals. Failure to maintain appropriate records shall be grounds for revocation of the feedlot permit. All animals without official identification must be moved directly to slaughter, and movement to slaughter must be completed before any of the animals reach the age of 18 months. If blue metal “meat only” tags are applied, then records on tags applied must be maintained and shall consist of serial tag numbers, origin of the group(s) (state, market, or individual), date of tagging, and destination (date sold and buyer).

These rules are intended to implement Iowa Code chapter 163.

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For additional history, see individual divisions in Chapter 64.

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² Effective date of 3/15/89 delayed 70 days by the Administrative Rules Review Committee at its March 13, 1989, meeting.

³ Revised 21—subrule 64.158(2) effective April 1, 1995.

CHAPTER 11
BROKERAGE AGREEMENTS AND LISTINGS

[Prior to 9/4/02, see 193E—Ch 1]

193E—11.1(543B) Listing brokerage agreements. All listing agreements shall be in writing, properly identifying the property and containing all of the terms and conditions under which the property is to be sold, including the price, the commission to be paid, the signatures of all parties concerned and a definite expiration date. The agreement shall contain no provision requiring a party signing the listing to notify the broker of the listing party's intention to cancel the listing after such definite expiration date. An exclusive agency or exclusive right to sell listing shall clearly indicate that it is such an agreement. A legible copy of every written listing agreement or other written authorization shall be given to the owner of the property by a licensee as soon as reasonably practical after the signature of the owner is obtained.

11.1(1) A licensee shall not solicit or enter into a listing or brokerage agreement with an owner if the licensee knows or has reason to know that the owner has a written unexpired exclusive agency or exclusive right to sell listing agreement to the property with another broker, unless the owner initiates the discussion and the licensee has not directly or indirectly solicited the listing or brokerage agreement.

a. However, if the owner initiates the discussion, the licensee may negotiate and enter into a listing or brokerage agreement that will take effect after the expiration of the current listing.

b. If the owner initiates the discussion, the licensee may inform the owner that the owner must allow the current listing to expire or obtain a mutually acceptable cancellation from the listing broker before any further discussion can take place.

11.1(2) A real estate licensee shall not negotiate a sale, exchange, or lease of real property directly with an owner if it is known that the owner has a written unexpired contract in connection with the property which grants an exclusive right to sell to another broker, or which grants an exclusive agency to another broker.

11.1(3) A listing agreement shall not be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

11.1(4) Net listing prohibited. No licensee shall make or enter into a net listing agreement for the sale of real property or any interest in real property. A net listing agreement is an agreement that specifies a net sale price to be received by the owner with the excess over that price to be received by the broker as commission. The taking of a net listing shall be unprofessional conduct and shall constitute a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

11.1(5) A real estate licensee shall not induce another to seek to alter, modify, or change another licensee's fee or commission for real estate brokerage services without that licensee's prior written consent.

11.1(6) Any commission or fee in any listing agreement is fully negotiable among the parties to that listing agreement. Once the parties to a listing agreement have agreed to a commission or fee, no licensee other than a party to the listing agreement shall attempt to alter, modify, or change or induce another person to alter, modify or change a commission or fee that has previously been agreed upon without the prior written consent of the parties to that listing agreement.

193E—11.2(543B) Enforcing a protective clause. To enforce a protective clause beyond the expiration of an exclusive listing contract, there must be a provision for the protective clause in the listing contract which establishes a definite protection period. In writing and prior to the expiration of the listing, the broker must furnish to the listing party the names and available contact information of persons to whom the property was presented during the active term of the listing and for whom protection is sought. Delivery shall be by personal service with written acknowledgment of receipt, or by both regular mail and certified mail, return receipt requested.

[ARC 9505B, IAB 5/18/11, effective 6/22/11; ARC 9929B, IAB 12/28/11, effective 2/1/12]

193E—11.3(543B) Brokerage agreements. All brokerage agreements shall be written and cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement, unless the terms of the agreement state otherwise. Upon termination

of association or employment with the principal broker, the affiliated broker associate or salesperson shall not take or use any written brokerage agreements secured during the association or employment. Said brokerage agreements remain the property of the principal broker and may be canceled only by the broker and the client.

11.3(1) Every written brokerage agreement shall include, at a minimum, the requirements set forth in Iowa Code section 543B.57 and the following provisions:

a. All listing contracts and all brokerage agency contracts shall contain a statement disclosing the brokerage policy on cooperating with and compensating other brokerages whether the brokerage is acting as subagent or the other parties' agent in the sale, lease, rental, or purchase of real estate, including whether the brokerage intends to share the compensation with other brokerages. Such disclosure shall serve to inform the client of any policy that would limit the participation of any other brokerage; and

b. All listing contracts and all brokerage agency contracts shall comply with Iowa real estate law and commission rules including, but not limited to, rules 193E—11.1(543B) and 11.4(543B) and 193E—Chapter 15.

11.3(2) No licensee shall make or enter into a brokerage agreement that specifies a net sale, lease, rental, or exchange price to be received by an owner and the excess to be received by the licensee as a commission.

11.3(3) The taking of a net brokerage agreement shall be unprofessional conduct and a practice that is harmful or detrimental to the public and shall constitute a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

11.3(4) Duration of relationship. The relationships shall commence at the time of the brokerage agreement and shall continue until closing of the transaction or performance or completion of the agreement by which the broker was engaged within the term of the agreement. If the transaction does not close, or the agreement for which the broker was engaged is not performed or completed for any reason, the relationship shall end at the earlier of the following:

- a.* Any date of expiration agreed upon by the parties; or
- b.* Any termination by written agreement of the parties.

11.3(5) Obligation terminated. In addition to any continuing duty or obligation provided in the written agreement or pursuant to Iowa law and commission rules, a broker or brokerage engaged as a seller's or landlord's agent, buyer's or tenant's agent, subagent, or dual agent and affiliated licensees shall have the duty after termination, expiration, completion, or performance of the brokerage agreement to:

- a.* Account for all moneys and property related to and received during the engagement; and
- b.* Keep confidential all information received during the course of the engagement which was made confidential by request or instructions from the engaging party or is otherwise confidential by statute or rule.

11.3(6) Compensation. In any real estate transaction, the broker's compensation may be paid by the seller, the buyer, the landlord, the tenant, a third party, or by the sharing or splitting of a commission or compensation between brokers.

a. Payment of compensation shall not be construed to determine or establish an agency relationship. The payment of compensation to a broker does not determine whether a brokerage relationship has been created between any broker and a seller, landlord, buyer, or tenant paying such compensation.

b. Written permission of the client is required as follows:

(1) A seller's or landlord's agent may share the commission or other compensation paid by such seller or landlord with another broker, with the written consent of the seller or landlord.

(2) A buyer's or tenant's agent may share the commission or other compensation paid by such buyer or tenant with another broker, with the written consent of the buyer or tenant.

(3) Without the written approval of the client, a seller's or landlord's agent shall not propose to the buyer's or tenant's agent that such seller's or landlord's agent may be compensated by sharing compensation paid by such buyer or tenant.

(4) Without the written approval of the client, a buyer's or tenant's agent shall not propose to the seller's or landlord's agent that such buyer's or tenant's agent may be compensated by sharing compensation paid by such seller or landlord.

c. A broker may be compensated by more than one party for services in a transaction if the parties have consented in writing to such multiple payments prior to entering into a contract to buy, sell, lease, or exchange.

d. A licensee shall not accept, receive or charge an undisclosed commission for a transaction.

e. A licensee shall not give or pay an undisclosed commission to any other licensee for a transaction, except payment for referrals to other licensees, including franchise affiliates, to provide real estate brokerage services, if there is no direct or beneficial ownership interest of more than 1 percent in the business entity providing the service.

f. A licensee shall not pay any undisclosed rebate to any party to a transaction.

g. A licensee shall not give any undisclosed credit against commission due from a client or licensee to any party to a transaction.

h. A licensee shall not accept, receive or charge any undisclosed payments for any services provided by any third party to any party to a transaction including, but not limited to, payments for procuring insurance or for conducting a property inspection related to the transaction.

i. The provisions of these rules do not apply to a gratuitous gift, such as flowers or a door knocker, to a buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease, as long as any client relationship has terminated.

j. The provisions of these rules do not apply to a free gift, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease prior to the parties' signing a contract to purchase or lease and not promised or offered as an inducement to sell, buy, or lease, as long as no client relationship has been established with the buyer or lessee.

11.3(7) Solicitation of brokerage agreements. A licensee shall not advise, counsel, or solicit a brokerage agreement from a seller or buyer, or landlord or tenant, if the licensee knows, or acting in a reasonable manner should have known, that the seller or buyer, or landlord or tenant, has contracted with another broker for the same brokerage services on an exclusive basis.

a. This rule does not preclude a broker from entering into a brokerage agreement with a seller or buyer, or landlord or tenant, when the initial contact is initiated by the seller or buyer, or landlord or tenant, and the licensee has not directly or indirectly solicited the discussion, provided the brokerage agreement does not become effective until the expiration or release of the current brokerage agreement.

b. A brokerage agreement may not be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

11.3(8) Any commission or fee in any brokerage agreement is fully negotiable among the parties to that brokerage agreement. Once the parties to a brokerage agreement have agreed to a commission or fee, no licensee other than a party to that brokerage agreement shall attempt to alter, modify, or change or induce another person to alter, modify, or change a commission or fee that has previously been agreed upon without the prior written consent of the parties to that brokerage agreement.

11.3(9) A real estate licensee shall not induce another to seek to alter, modify, or change another licensee's fee or commission for real estate brokerage services without that licensee's prior written consent.

11.3(10) A commission split agreement between brokers should be a separate document and not included in the purchase agreement. A purchase agreement should not be made contingent upon the selling broker's receiving a certain percentage of the listing broker's commission.

193E—11.4(543B) Terms or conditions. A licensee shall not write, prepare or otherwise use a contract containing terms or conditions that would violate real estate laws in Iowa Code chapter 543B or commission rules.

The broker shall be responsible to ensure that all preprinted documents and forms used are in compliance with these rules.

193E—11.5(543B) Distribution of executed instruments. Upon execution of any instrument in connection with a real estate transaction, a licensee shall, as soon as practicable, deliver a legible copy of the original instrument to each of the parties thereto. It shall be the responsibility of the licensee to prepare sufficient copies of such instruments to satisfy this requirement. The broker shall retain copies for five years.

193E—11.6(543B) Rebates and inducements.

11.6(1) A licensee shall not pay a commission, any part of a commission, or valuable consideration to an unlicensed third party for performing brokerage functions or engaging in any activity that requires a real estate license. Referral fees or finder's fees paid to unlicensed third parties for performing brokerage activities, or engaging in any activity that requires a real estate license, are prohibited.

11.6(2) In a listing contract, the broker is principal party to the contract. The broker may, with proper disclosure, pay a portion of the commission earned to an unlicensed seller or landlord that is a principal party to the listing contract. This will be deemed a reduction in the amount of the earned commission.

11.6(3) A licensee may present a gratuitous gift, such as flowers or a door knocker, to the buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease. The permission and disclosure requirements of rule 193E—11.3(543B) do not apply as long as any client relationship has terminated.

11.6(4) A licensee may present free gifts, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease, prior to that party's signing a contract to purchase or lease and not promised or offered as an inducement to buy or lease. It is the licensee's responsibility to ensure that the promotion is in compliance with other Iowa laws, such as gaming regulations. The permission and disclosure requirements of rule 193E—11.3(543B) do not apply as long as no client relationship has been established with the buyer or lessee.

11.6(5) The offering by a licensee of a free gift, prize, money, or other valuable consideration as an inducement shall be free from deception and shall not serve to distort the true value of the real estate service being promoted.

11.6(6) A licensee may make donations to a charity, or other not-for-profit organization, for each listing or closing, or both, that the licensee has during a specific time period. The receiving entity may be selected by the licensee or by a party to the transaction. The contribution may be in the name of the licensee or in the name of a party to the transaction. Contributions are permissible only if the following conditions are met:

- a.* There are no restrictions placed on the payment;
- b.* The donation is for a specific amount;
- c.* The receiving entity does not act or participate in any manner that would require a license;
- d.* The licensee exercises reasonable care to ensure that the organization or fund is a bona fide nonprofit;
- e.* The licensee exercises reasonable care to ensure that the promotional materials clearly explain the terms under which the donation will be made; and
- f.* All required disclosures are made.

193E—11.7(543B) New construction. A contract with a builder to construct or attach personal property or other type of structure to land and thereby produce an improvement to real estate is a real estate transaction. A licensee shall make written disclosure revealing that the licensee and the licensee's broker or brokerage firm will receive a commission, compensation, or valuable consideration for its efforts in the transaction, as required by 11.3(6) "d." Written disclosure is required regardless of the type of representation provided by the licensee or if the licensee provides no representation.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 9505B (Notice ARC 9389B, IAB 2/23/11), IAB 5/18/11, effective 6/22/11]

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CHAPTER 12 LOW-INCOME HOUSING TAX CREDITS

265—12.1(16) Qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 2012 Qualified Allocation Plan shall be the qualified allocation plan for the allocation of 2012 low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The qualified allocation plan does not include any amendments or editions created subsequent to December 7, 2011.

[ARC 8266B, IAB 11/4/09, effective 12/9/09; ARC 8947B, IAB 7/28/10, effective 7/6/10; ARC 9279B, IAB 12/15/10, effective 1/19/11; ARC 9950B, IAB 12/28/11, effective 2/1/12]

265—12.2(16) Location of copies of the plan. The qualified allocation plan can be reviewed and copied in its entirety on the authority's Web site at <http://www.iowafinanceauthority.gov>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's Web site. The plan incorporates by reference IRC Section 42 and the regulations in effect as of December 7, 2011. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's Web site.

[ARC 8266B, IAB 11/4/09, effective 12/9/09; ARC 8947B, IAB 7/28/10, effective 7/6/10; ARC 9279B, IAB 12/15/10, effective 1/19/11; ARC 9950B, IAB 12/28/11, effective 2/1/12]

265—12.3(16) Compliance manual. The Low Income Housing Tax Credit Program Compliance Monitoring Manual, dated January 1, 2010, is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

[ARC 7700B, IAB 4/8/09, effective 3/19/09; ARC 7891B, IAB 7/1/09, effective 8/5/09; ARC 8723B, IAB 5/5/10, effective 6/9/10]

265—12.4(16) Location of copies of the manual. The compliance manual can be reviewed and copied in its entirety on the authority's Web site at www.iowafinanceauthority.gov. Copies of the compliance manual shall be deposited with the administrative rules coordinator and at the state law library. The compliance manual incorporates by reference IRC Section 42 and the regulations in effect as of October 31, 2009. Additionally, the compliance manual incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and links to these statutes, regulations and rules are on the authority's Web site. Copies are available from the authority upon request at no charge.

[ARC 7700B, IAB 4/8/09, effective 3/19/09; ARC 7891B, IAB 7/1/09, effective 8/5/09; ARC 8723B, IAB 5/5/10, effective 6/9/10]

These rules are intended to implement Iowa Code section 16.52.

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CHAPTER 98
SUPPORT ENFORCEMENT SERVICES

PREAMBLE

In addition to the enforcement services described in 441—Chapter 95, “Collections,” the child support recovery unit is charged with the responsibility to provide the services delineated in this chapter.

DIVISION I
MEDICAL SUPPORT ENFORCEMENT

441—98.1(252E) Definitions.

“Medical support” means either the provision of a health benefit plan, including a group or employment-related or an individual health benefit plan, or a health benefit plan provided pursuant to Iowa Code chapter 514E to meet the medical needs of a dependent and the cost of any premium required by a health benefit plan, or the payment to the obligee of a monetary amount in lieu of a health benefit plan, either of which is an obligation separate from any monetary amount of child support ordered to be paid. Medical support is not alimony.

“Obligee” means a custodial parent or other natural person legally entitled to receive a support payment on behalf of a child.

“Obligor” means a noncustodial parent or other natural person legally responsible for the support of a dependent.

“Reasonable in cost” means that a health insurance is employment-related or other group health insurance regardless of the service delivery mechanism.

441—98.2(252E) Provision of services. The child support recovery unit shall provide medical support enforcement services to recipients of Medicaid for whom an assignment of support is in effect and shall provide these services to nonpublic assistance recipients upon their request.

98.2(1) Nonpublic assistance recipients.

a. Applicants for nonpublic assistance services shall be informed of the availability of medical support enforcement services at the time of application and shall be asked about their desire to receive these services on Form CS-3103-0, Application for Non-Assistance Support Enforcement Service. Applicants who do not desire medical support enforcement services at the time of application may request these services in writing at a later date by completing Form 470-2744, Nonpublic Assistance Medical Support Request.

b. The child support recovery unit shall inform recipients of nonpublic assistance services whose application forms did not contain notice of medical support enforcement services of the availability of these services in writing on Form 470-2744 prior to establishing or enforcing medical support, and shall not provide these services unless a written request is received.

98.2(2) Public assistance recipients. Unless good cause has been established, recipients of Medicaid are required to cooperate with the child support recovery unit as a condition of eligibility as prescribed in rule 441—75.14(249A). This includes completing and signing Form 470-2748, Public Assistance Medical Support Request, upon request of the child support recovery unit.

441—98.3(252E) Establishing medical support. Nullified; see note at end of chapter.

441—98.4(252E) Accessibility of the health benefit plan. When a choice of employment-related or group health benefit plans is offered to the obligor, some of which are of little or no value to the dependents because the dependents reside outside the geographic area served by the health benefit plans, the child support recovery unit shall request through a petition or notice of support debt that the obligor provide a plan that is accessible to the dependents.

441—98.5(252E) Health benefit plan information. The unit shall gather information concerning a health benefit plan.

98.5(1) *Information from an employer.* The unit shall gather information concerning a health benefit plan an employer may offer an obligor as follows:

a. The unit shall send Form 470-0177, Employment and Health Insurance Questionnaire, or Form 470-2240, Employer Health Insurance Questionnaire, whenever a potential employer is identified.

b. The unit shall secure medical support information from a known employer on Form 470-2743, Employer Medical Support Information, when Form 470-3818, Medical Support Notice, or an order has been forwarded to the employer pursuant to Iowa Code section 252E.4.

98.5(2) *Information from an obligor.* The unit may secure medical support information from an obligor on Form 470-0413, Obligor Insurance Questionnaire.

98.5(3) *Disposition of information.* The unit shall provide the information:

a. To the Medicaid agency and to the obligee when the dependent is a recipient of Medicaid.

b. To the obligee when the dependent is not a recipient of Medicaid.

441—98.6(252E) Insurer authorization. When the obligor does not provide to the insurer the signed documents necessary to enroll and process claims for the dependent for whom support is ordered, the insurer is authorized to accept the signature of the obligee or the department's designee on necessary forms. For purposes of Division I of this chapter, the third-party liability unit is the department's designee when support is assigned.

441—98.7(252E) Enforcement.

98.7(1) *Medical support enforcement.* For the purposes of enforcement, medical support may be reduced to a dollar amount and collected through the same remedies available for the collection and enforcement of child support.

98.7(2) *Health benefit plan or insurance.*

a. If an obligor was ordered to provide a health benefit plan or insurance coverage under an order, but did not comply with the order, the child support recovery unit may implement the order by forwarding to the employer a copy of the order, an ex parte order as provided in Iowa Code section 252E.4, or Form 470-3818, Medical Support Notice.

b. If the child support recovery unit implements an order under this subrule, the unit shall send a notice to the obligor at the last-known address of the obligor by regular mail. The notice shall contain the following information:

- (1) A statement of the obligor's right to an informal conference.
- (2) The process to request an informal conference.
- (3) The obligor's right to file a motion to quash with the district court.

98.7(3) *Termination of employment.* When the child support recovery unit receives information indicating the obligor's employment has terminated, the unit shall secure the status of the health benefit plan by sending Form 470-3218, Employer Insurance Notification, to the employer.

If no response is received within 30 days of sending Form 470-3218, the unit shall send a second request on Form 470-3219, Employer Insurance Second Notification, to the employer. If the obligor does not notify the unit, or no response is received from the employer within 90 days of sending Form 470-3218, the unit shall notify the obligee that the health benefit plan may have terminated.

441—98.8(252E) Contesting the order. The obligor may contest the enforcement of medical support by means of an informal conference with the child support recovery unit, or by filing a motion to quash.

98.8(1) *Motion to quash.* Procedures for filing a motion to quash the order are specified under Iowa Code sections 252D.31 and 252E.6A.

98.8(2) *Informal conference.*

a. The obligor shall be entitled to only one informal conference for each new employer to which the unit has forwarded Form 470-3818, Medical Support Notice, or order under Iowa Code section 252E.4 to enforce medical support.

b. Procedures for the informal conference are as follows:

(1) The child support recovery unit shall inform the obligor in writing of the right to request an informal conference.

(2) The obligor may request an informal conference with the child support recovery unit if the obligor believes the enforcement was entered in error.

(3) The obligor shall request an informal conference in writing, within 15 calendar days from the date of the notice of the right to an informal conference, or at any time if a mistake of fact regarding the identity of the obligor is believed to have been made.

(4) The child support recovery unit shall schedule an informal conference within 15 calendar days from the receipt of a written request from the obligor or the obligor's representative.

(5) The child support recovery unit may conduct the conference in person or by telephone.

(6) If the obligor fails to attend the conference, only one alternative time shall be scheduled by the child support recovery unit.

(7) The child support recovery unit shall issue a written decision to the obligor within ten calendar days of the conference.

c. The issues to be reviewed at the conference shall be as follows:

(1) Whether the identity of the obligor is in error.

(2) Whether the obligor is already providing health benefit plan coverage for the dependent.

(3) Whether the availability of dependent coverage under a health benefit plan is in error.

(4) Whether the obligor was ordered to provide a health benefit plan coverage under the support order.

d. The results in an informal conference shall in no way affect the right of the obligor to file a motion to quash the order under Iowa Code section 252E.4.

These rules are intended to implement Iowa Code sections 252A.4, 252B.5, 252C.1, 252C.3, 252C.4, 252C.9, 252D.1, 252D.30, 598.1, 598.21, 598.22 and 600B.25 and Iowa Code chapter 252E.

441—98.9 to 98.20 Reserved.

DIVISION II
INCOME WITHHOLDING
PART A
DELINQUENT SUPPORT PAYMENTS

441—98.21(252D) When applicable. When there is a delinquency in an amount equal to the support payable for one month as specified by an order for support or reimbursement order and the child support recovery unit is providing services under 441—Chapter 95, the unit shall enter an order to withhold the obligor's income not exempt by state or federal law to require the income withheld to be paid to the collection services center to pay the support obligation. An income withholding order shall also be entered to collect the unpaid balance of a judgment for the reimbursement of a support debt when a repayment schedule is not specified in the order establishing the judgment.

441—98.22 and 98.23 Reserved.

441—98.24(252D) Amount of withholding. The child support recovery unit shall determine the amount to be withheld by the employer or other income providers as follows:

98.24(1) Current support obligation exists. When a current support obligation exists, the amount withheld shall be an amount equal to the current support obligation, and an additional amount equal to 50 percent of the current support obligation to be applied toward the liquidation of any delinquency.

Effective July 1, 1998, the amount withheld to be applied toward the liquidation of any delinquency shall be 20 percent of the current support obligation for any support order entered or modified on or after July 1, 1998, or for any support order entered or modified prior to July 1, 1998, for which no income withholding order has been filed by an Iowa CSRU prior to July 1, 1998.

a. The obligor may request a modification of the amount withheld as payment toward the arrearage or reimbursement on the grounds of hardship. The procedure for this request is described in

rule 98.43(252D). Hardship exists if the obligor's income is 200 percent or less than poverty level for one person as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

b. If hardship is claimed by the obligor, the child support recovery unit may verify income from:

- (1) The employer or other income provider of the obligor.
- (2) The obligor.
- (3) The state employment security agency.
- (4) Other records available in accordance with Iowa Code section 252B.9.

c. If the hardship criteria are met, the amount withheld as payment toward the arrears may be modified as follows:

(1) The obligor's gross yearly income shall be divided by 200 percent of the established yearly gross poverty level income for one person. That amount shall be multiplied by .5. The resulting figure will be the percent of the current support order which shall be withheld for payment on the arrearage.

(2) The amount withheld on the arrearage shall not be less than \$5 per month.

(3) If criteria for withholding 20 percent toward liquidation of any delinquency are also met, the lesser of 20 percent or hardship is to be withheld.

98.24(2) *Current obligation ended.* When the current support obligation has ended or has been suspended, the income withholding order shall remain in effect until any delinquency has been satisfied. The amount withheld shall be equal to the amount of the most recent prior current support obligation which is greater than zero. Hardship criteria shall be applied in accordance with subrule 98.24(1). However, in the following circumstances, the amount withheld shall be 20 percent of the amount owed for current support at the time the obligation ended or was suspended; and, if hardship criteria are met, this amount shall be one-half of the amount established under the guidelines in subrule 98.24(1):

a. There has been a change of legal custody from the obligee to the obligor.

b. The obligee and obligor have reconciled and have obtained a modification ending the current support obligation.

c. The current obligation is suspended through the suspension process.

d. In a foster care case, the order for parental liability ended when the child left placement, or an order ending the liability has been entered and the child in foster care has returned to the home of a parent ordered to pay parental liability. In this situation, the amount withheld shall be reduced to 20 percent of the current support amount when the obligation ended, but only for the parent with whom the child resides.

98.24(3) *No support ordered.* When there is no current child support ordered and the obligation is solely the result of a judgment which does not specify a repayment schedule, the unit shall establish the amount to be withheld per month as follows:

a. Initially the amount shall be set at the amount for one person from the ADC schedule of basic needs. Hardship may be asserted as set out in subrule 98.24(1).

b. If hardship criteria are met in these circumstances, the amount withheld on reimbursement shall be determined by dividing the obligor's gross yearly income by 200 percent of the poverty level income for one person. The resulting number is the percent of the existing withholding amount that will now be withheld. This amount will be reduced by one-half if the obligor has legal custody of the child.

98.24(4) *Lump-sum income source.* Notwithstanding subrules 98.24(1), 98.24(2), and 98.24(3), when the obligor is paid by a lump-sum income source, the withholding amount may include all current and delinquent support due through the current month. Lump-sum income includes income received in a sole payment or in payments that occur at two-month or greater intervals.

98.24(5) *Disability continues.* If hardship criteria under paragraph 98.43(2) "e" are met and the amount withheld as payment toward the arrears is modified, the obligor is deemed to continue to meet the hardship criteria for the duration of the social security disability benefits or supplemental security income disability benefits. If those benefits have not ended, but the amount to withhold would otherwise be amended under this rule and under rule 441—98.45(252D), the unit shall determine the amount to withhold for payment toward arrears under this rule by using the same percent as was used when the

hardship amount was first determined under paragraph 98.43(2)“e,” but the amount shall not be less than \$5 per month.

441—98.25 to 98.30 Reserved.

PART B
IMMEDIATE INCOME WITHHOLDING

441—98.31(252D) Effective date. In cases for which the child support recovery unit is providing enforcement services, the income of the obligor is subject to immediate withholding pursuant to Iowa Code section 252D.8 without regard to the existence of a delinquency in the payment of support.

441—98.32(252D) Withholding automatic. Immediate withholding of income is automatic without additional notice to the obligor unless:

98.32(1) *Good cause exists.* Good cause is found to exist by the court or child support recovery unit. For purposes of this rule, “good cause” is defined as the posting of a secured bond by the obligor sufficient to pay all current and future child support obligations, including any arrearages which may accrue.

98.32(2) *Written agreement exists.* A written agreement is reached between both parties which provides for an alternative arrangement for payment of child support subject to the following conditions:

a. Unless approved by the child support recovery unit, written agreements between the obligee and obligor to waive immediate income withholding become void when child support is assigned to this state or to another state pursuant to a statute of that jurisdiction.

b. All payments pursuant to any written agreement shall be paid as directed in Iowa Code sections 252B.14 and 598.22.

441—98.33 Reserved.

441—98.34(252D) Approval of request for immediate income withholding. When the obligee or other party to the proceeding requests immediate withholding, the child support recovery unit shall determine whether the request shall be approved.

98.34(1) *Basis for approval.* Approval of a request for immediate income withholding by the child support recovery unit may be based on:

a. Past payment record of the obligor which demonstrates an inconsistent compliance with the support order.

b. Whether the state of Iowa is providing public assistance.

98.34(2) *Request denied.* The child support recovery unit may not approve a request for immediate income withholding on cases where no public assistance has been expended and there is a prior written agreement between the obligee and obligor which has been approved by court order.

441—98.35(252D) Modification or termination of withholding. The court or the child support recovery unit may modify or revoke the income withholding based on the criteria of Iowa Code chapter 252D. However, the income withholding may not be revoked or terminated if there is any current support owed.

441—98.36(252D) Immediate income withholding amounts. The amount withheld shall be the amount of the current support obligation as specified in the support order. If a judgment for accrued support is established in the support order, the amount withheld shall be the amount due for current support and the periodic payment amount due for the accrued support as specified in the order. If no periodic payment for the accrued support is established in the support order, the amount withheld shall be the amount due for current support plus 10 percent of the amount of the current obligation to be applied to the accrued support.

441—98.37(252D) Immediate income withholding amounts when current support has ended. When the child support obligation has ended, the amounts to be withheld shall be in accordance with subrule 98.24(2).

These rules are intended to implement Iowa Code chapter 252D.

441—98.38 Reserved.

PART C
INCOME WITHHOLDING—GENERAL PROVISIONS

441—98.39(252D,252E) Provisions for medical support. An income withholding order or notice of income withholding may also include provisions for enforcement of medical support when medical support is included in the support order. The income withholding order or notice of income withholding may require implementation of dependent coverage under a health benefit plan pursuant to Iowa Code chapter 252E or the withholding of a dollar amount for medical support. Amounts withheld for medical support shall be determined in the same manner as amounts withheld for child support.

441—98.40(252D,252E) Maximum amounts to be withheld. An income withholding order or a notice issued by the child support recovery unit shall require that the employer or other income provider withhold no more than the maximum amounts allowed under the Federal Consumer Credit Protection Act, 15 U.S.C. Section 1673(b).

98.40(1) The amount of income subject to withholding shall be limited to 50 percent of the nonexempt disposable income of the obligor unless there is more than one support order for which the obligor is obligated and the criteria of 15 U.S.C. Section 1673(b) are met, or the obligor agrees to a greater amount within these limits.

98.40(2) Disposable income shall mean the nonexempt income of the obligor minus lawful deductions as prescribed by 42 U.S.C. Section 662(G).

441—98.41(252D) Multiple obligations. In the event that an obligor has more than one support obligation that is being enforced by the child support recovery unit, the unit may enter an income withholding order to enforce each obligation. The amount specified to be withheld on the arrearage under the income withholding order or notice shall be determined in accordance with rule 441—98.24(252D).

441—98.42(252D) Notice to employer and obligor. The child support recovery unit shall send the obligor and the employer or other income provider a notice of income withholding as follows:

98.42(1) Notice to employer: The unit may send notice to the employer or other income provider by regular mail or by electronic means in accordance with Iowa Code chapter 252D. If the unit is sending notice by regular mail, it shall send Form 470-3272, Order/Notice to Withhold Income for Child Support, or a notice in the standard format prescribed by 42 U.S.C. §666(b)(6)(A). If the unit is sending the notice by electronic means, it may include notice of more than one obligor's order and need only state once provisions which are applicable to all obligors, such as the information in paragraphs "d," "f," "g," and "i," of this subrule. The statement of provisions applicable to all obligors may be sent by regular mail or electronic means. The notice of income withholding shall contain information such as the following:

- a. The obligor's name and social security number.
- b. The amount of current support to withhold.
- c. The amount of support to withhold for payment of delinquent support, if any.
- d. The amount an income provider may deduct for costs of processing each support payment.
- e. The child support case number.
- f. The location to which payments are sent.
- g. The maximum amount that can be withheld for payment of support as specified in rule 441—98.40(252D,252E).
- h. The method to calculate net income.
- i. Responsibilities of the income provider as specified in Iowa Code section 252D.17.

j. Responsibility, if any, of the income provider to enroll the obligor's dependent for coverage under a health benefit plan.

98.42(2) *Notice to obligor.* Form 470-2624, Initiation of Income Withholding, shall be sent to the last-known address of the obligor by regular mail. The notice shall contain the following information:

- a. A statement of the obligor's right to an informal conference.
- b. The process to request an informal conference.
- c. The obligor's right to claim hardship criteria and the process for a claim.
- d. The obligor's right to file a motion to quash the income withholding order or notice with the district court.
- e. The information provided to the employer or other income provider, or a copy of the notice sent to the employer or other income provider.
- f. The amount of any delinquency.

98.42(3) *Standard format.* As provided in Iowa Code section 252D.17 as amended by 1997 Iowa Acts, House File 612, section 61, an order or notice of an order for income withholding shall be in a standard format prescribed by the child support recovery unit. Form 470-3272, Order/Notice to Withhold Income for Child Support, is the standard format prescribed by the child support recovery unit, and the unit shall make a copy available to the state court administrator and the Iowa state bar association.

441—98.43(252D) *Contesting the withholding.* The obligor may contest the income withholding by means of an informal conference with the child support recovery unit or by filing a motion to quash.

98.43(1) *Motion to quash.* Procedures for filing a motion to quash the order or the notice of income withholding are specified in Iowa Code chapter 252D.

98.43(2) *Informal conference.*

a. The obligor shall be entitled to only one informal conference for each new or modified income withholding order or notice issued by the child support recovery unit that specifies a new or modified total amount to withhold.

b. Procedures for the informal conference are as follows:

(1) The child support recovery unit shall inform the obligor in writing of the right to request an informal conference.

(2) The obligor may request an informal conference with the child support recovery unit if the obligor believes the withholding is in error or meets the hardship criteria defined by subrule 98.24(1).

(3) The obligor shall request an informal conference in writing, within 15 calendar days from the date of the notice of the right to an informal conference, or at any time, if a mistake of fact regarding the identity of the obligor or the amount of the delinquency is believed to have been made.

(4) The child support recovery unit shall schedule an informal conference within 15 calendar days of the receipt of a written request from the obligor or the obligor's representative.

(5) The child support recovery unit may conduct the conference in person or by telephone.

(6) If the obligor fails to attend the conference, only one alternative time shall be scheduled by the child support recovery unit.

(7) The child support recovery unit shall issue a written decision to the obligor within ten calendar days of the conference.

(8) If the child support recovery unit has not complied with subrule 98.24(1), it shall then adjust the income withholding amount.

c. The issues to be reviewed at the conference shall be as follows:

(1) For all income withholding orders or notices, whether:

1. The identity of the obligor is in error.
2. The amount of the current support obligation is in error.

(2) For orders or notices resulting from the existence of a delinquency, whether:

1. The amount of delinquent support is in error.
2. The hardship criteria are met.

3. For income withholding orders or notices issued after November 1, 1990, whether the guidelines described at rule 441—98.24(252D) were followed.

(3) For immediate income withholding orders or notices, whether the criteria of rules 441—98.32(252D) and 441—98.34(252D) were appropriately applied.

d. The results of an informal conference shall in no way affect the right of the obligor to file a motion to quash the income withholding order or notice with the court.

e. Notwithstanding paragraph 98.43(2)“a” and subparagraph 98.43(2)“b”(3), an obligor who has been awarded social security disability benefits or supplemental security income disability benefits under the federal Social Security Act may request an informal conference in writing at any time.

98.43(3) *Income withholding issued from another state.* The child support recovery unit shall follow procedures for a motion to quash or conduct an informal conference based on an income withholding order or notice issued in another state only if the unit is providing services under 441—Chapter 95.

441—98.44(252D) Termination of order. The child support recovery unit may, by ex parte order, terminate an income withholding order under the following conditions:

98.44(1) *Order entered in error.* The child support recovery unit shall terminate an income withholding order upon determination that the order was entered in error as follows:

a. The person named as the obligor in the income withholding order is not the person required to provide support under the support order being enforced.

b. For orders resulting from the existence of a delinquency, the required minimum delinquency did not exist at the time the income withholding order was entered.

98.44(2) *No support due.* In cases for which services are being provided by the child support recovery unit, the child support recovery unit shall terminate an income withholding order previously entered by the unit when the current support obligation has terminated and when the delinquent support obligation has been fully satisfied as applicable to all of the children covered by the income withholding order. In no case shall payment of overdue support be the sole basis for termination of withholding.

a. to d. Rescinded IAB 9/1/93, effective 11/1/93.

98.44(3) *Other circumstances.* The child support recovery unit may revoke an income withholding order under other circumstances provided the conditions of Iowa Code chapter 252D are met.

441—98.45(252D) Modification of income withholding. The child support recovery unit may modify a previously issued income withholding order or notice according to the guidelines established under rule 441—98.24(252D) if it is determined that:

98.45(1) *Current support obligation changed.* There has been a change in the amount of the current support obligation.

98.45(2) *Amount in error.* The amount required to be withheld under the income withholding order or notice is in error as follows:

a. The amount required to be withheld as current support is not the amount specified in the order for support being enforced.

b. The guidelines established in rule 441—98.24(252D) were not followed.

98.45(3) *Past-due support paid.* Any past-due support debt has been paid in full. The withholding order or notice shall be modified to require that only the current support obligation be withheld from the income of the obligor. Should a delinquency later accrue, the withholding order or notice may again be modified to secure an additional payment toward the delinquency. The amount of the arrears payment shall be set at 20 percent of the current support amount.

98.45(4) *Income withholding and determination of controlling orders.* An obligation amount different than what the child support recovery unit has been enforcing is established upon the determination of controlling order as allowed in Iowa Code section 252K.207. Upon the change to the new obligation amount, the amount withheld to be applied toward the liquidation of any delinquency shall be 20 percent.

98.45(5) *Income withholding and review and adjustment of orders.* The child support recovery unit has conducted a review of the obligation pursuant to 441—Chapter 99, Division IV. The unit shall modify the amount withheld to be applied toward the liquidation of any delinquency to 20 percent upon completion of the review and adjustment process.

98.45(6) *Disability ends.* The amount required to be withheld was based on the hardship criteria on or after September 1, 2006, and the child support recovery unit has verified that the obligor is no longer receiving social security disability benefits or supplemental security income disability benefits, unless the benefits have been changed to social security retirement benefits.

441—98.46(252D) Refunds of amounts improperly withheld. The child support recovery unit shall refund to the obligor any amounts improperly withheld and received by the department under an income withholding order or notice issued by the unit, subject to the following:

98.46(1) *Services provided by the department.* Only those amounts received by the department during the period enforcement services are being provided are subject to refund.

98.46(2) *Satisfaction of amount to withhold.* No refund shall be made unless amounts have been collected which fully satisfy the amount specified in the mandatory income withholding order or notice for the withholding period during which income has been generated.

98.46(3) *When issued.* Any amounts received in excess of the amounts specified in the order or notice to withhold shall be issued to the obligor within 30 days of discovery by the child support recovery unit, unless the obligor requests in writing that these amounts be credited toward the arrearage or future child support. If there is a dispute regarding whether there is an overpayment, the obligor may request an informal conference by following the procedures set out in subparagraphs 98.43(2) “a”(3) through (7). This procedure shall not preclude the obligor from utilizing other civil remedies.

98.46(4) *Recovery by department.* The department may recover payments from the obligee in excess of those described in subrule 98.46(2) which have been received by the department and improperly forwarded to the obligee.

441—98.47(252D) Additional information about hardship. The child support recovery unit shall make reasonable efforts within 13 months of September 1, 2006, to identify and incrementally send information to obligors who may meet the requirements for hardship in paragraph 98.43(2) “e.”

These rules are intended to implement Iowa Code Supplement chapters 252D and 252E.

441—98.48 to 98.50 Reserved.

DIVISION III
REVIEW AND ADJUSTMENT OF CHILD SUPPORT OBLIGATIONS

441—98.51 to 98.60 Renumbered as 99.61 to 99.70, IAB 9/1/93, effective 11/1/93.

DIVISION IV
PUBLICATION OF NAMES

441—98.61(252B) List for publication. The department may compile and make available for publication a list of cases in which no payment has been credited to an accrued or accruing support obligation during a previous three-month period, subject to the following:

98.61(1) *Support order entered in Iowa.* The list shall include cases with a support order entered in Iowa which is being enforced by the child support recovery unit.

98.61(2) *Support order entered in another state.* The list may include cases with a support order entered in another state, if another state has requested this service, has demonstrated that the provision of this service is not in conflict with the laws of the state where the support order is entered, and the order is being enforced by the child support recovery unit.

98.61(3) *When compiled.* The department shall determine when to compile the list, but shall not be required to do so.

98.61(4) *Case selection.* Case selection shall be based on the records of the department at the time the list is compiled. The three-month period of nonpayment shall end no earlier than one month prior to the date the list is compiled. When an obligor has multiple orders on a case, all orders contained in the child support recovery unit record may be listed.

98.61(5) *Good cause.* The name of the obligor shall not be included when there has been a finding of good cause for noncooperation with the child support recovery unit in a public assistance case pursuant to 441—subrule 41.2(8) or 441—subrule 75.14(1) and a determination has been made that enforcement may not proceed without risk of harm to the child or caretaker.

441—98.62(252B) Releasing the list. The department may release the information, no more than twice annually, as follows:

98.62(1) *Release to media.* The department shall issue a press release to the weekly and daily newspapers in Iowa describing the manner in which a copy of the list may be obtained. Cost of producing the list shall be borne by the department. Costs of producing and transmitting a copy of the list shall be borne by the recipient of the copy.

98.62(2) *Availability of list.* Once released, the list shall be provided to other persons upon payment of an amount to cover the cost of producing a copy as specified in 441—subrule 9.3(7). Requests shall be directed to the Bureau of Collections, Fifth Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114.

These rules are intended to implement Iowa Code section 252B.9.

441—98.63 to 98.70 Reserved.

DIVISION V
ADMINISTRATIVE SEEK EMPLOYMENT ORDERS

441—98.71(252B) Seek employment order. The child support recovery unit (CSRU) may enter an ex parte order requiring the obligor to seek employment if employment of the obligor cannot be verified and if the obligor has failed to make support payments. Any obligor who has failed to make support payments and for whom employment cannot be verified is subject to issuance of an administrative order to seek employment.

441—98.72(252B) Effective date of order. The seek employment order shall be effective 15 days after issuance of the order to the obligor. This 15-day period shall serve as advance notice to the obligor.

441—98.73(252B) Method and requirements of reporting. The obligor shall complete Form 470-3155, Report of Seek Employment Activity, which shall be submitted to the unit on a weekly basis throughout the duration of the order unless the obligor has a valid reason for not complying with the order. The obligor shall document at least five new attempts to find employment on the form each week. The same employer may not be reported more than once per week.

The obligor shall include the names, addresses, and the telephone numbers of each of the five employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom the inquiry was directed.

441—98.74(252B) Reasons for noncompliance. Upon verification, certain conditions shall be considered valid reasons for noncompliance. At the request of the child support recovery unit (CSRU), the obligor shall provide verification of any reason for noncompliance with the order when the information is not available to CSRU through on-line sources. Valid reasons for noncompliance and acceptable verification are:

98.74(1) *Receipt of social security, supplemental security income (SSI), or the family investment program (FIP).* Receipt of social security, SSI, or FIP is considered a valid reason for noncompliance when verified by information contained in on-line sources available to CSRU or written verification from the agency providing the benefits.

98.74(2) *Temporary illness or disability.* Temporary illness or disability of the obligor or other household member is considered a valid reason upon receipt of completed Form 470-3158, Physician's Statement, verifying the obligor's inability to seek or accept employment.

98.74(3) *High school student.* Attending high school is considered a valid reason upon verification from the high school.

98.74(4) *Incarceration.* Incarceration is considered a valid reason when verified through on-line information available to CSRU or on receipt of verification from the institution.

98.74(5) *Substance abuse treatment.* Participating in a supervised substance abuse treatment program that is associated with a treatment center is considered a valid reason upon verification from the treatment center.

98.74(6) *Job training.* Participation in a job training or job seeking program through the department of employment services as a result of receiving food stamps is considered a valid reason upon receipt of verification from the department of employment services.

98.74(7) *Employment or self-employment.* Employment or self-employment is considered a valid reason upon verification through the employer for those employed or through tax documents or business records for those self-employed.

98.74(8) *Payment of support.* Payment on the account equal to the amounts prescribed for income withholding in accordance with rule 441—98.24(252D) throughout the duration of the seek employment order is considered a valid reason upon verification of payments posted to the Iowa collection and reporting (ICAR) system.

441—98.75(252B) Method of service. The seek employment order shall be served on the obligor by regular mail. Proof of service shall be completed in accordance with Iowa Rules of Civil Procedure, Number 82.

441—98.76(252B) Duration of order. The seek employment order shall remain in effect for three months from the date of issuance unless CSRU determines the obligor has a valid reason for noncompliance as specified at rule 441—98.74(252B), at which time the order becomes unenforceable.

Upon acceptance of the reason for noncompliance, CSRU shall notify the obligor that the obligor is no longer required to comply with the seek employment order. Upon denial of the reason for noncompliance, CSRU shall notify the obligor that the obligor shall comply with the existing seek employment order. The notice shall be filed with the clerk of the district court. If the obligor disputes this decision, the obligor shall have recourse through the district court.

These rules are intended to implement Iowa Code section 252B.21.

441—98.77 to 98.80 Reserved.

DIVISION VI
DEBTOR OFFSET

441—98.81(252B) Offset against payment owed to a person by a state agency. The department will make a claim against a payment owed to an obligor by a state agency when support payments are delinquent as set forth in rule 11—40.1(8A). A claim against a payment owed to an obligor shall be applied to court-ordered support which the department is attempting to collect pursuant to Iowa Code chapter 252B.

98.81(1) *Case selection.* The department shall submit to the department of administrative services, at least monthly, a list of obligors who are delinquent at least \$50 in support payments.

98.81(2) *Notification of offset.* Within ten days of receiving notification from the department of administrative services that the obligor is entitled to a payment, the department shall:

a. Send a preoffset notice to the obligor. The preoffset notice shall inform the obligor of the amount the department intends to claim and apply to the support obligation and shall contain all information required by Iowa Code subsection 8A.504(2) and 11—subrule 40.4(4).

b. Notify the department of administrative services that the preoffset notice has been sent to the obligor.

98.81(3) *Appeal process.* An obligor may contest the department's claim by submitting a written request to the department. A hearing shall be granted pursuant to rules in 441—Chapter 7 if the obligor's request is submitted within 15 days of the date of the preoffset notice.

98.81(4) *Joint owner.* A joint owner's proportionate share of the payment, as determined by the department of administrative services, shall be released unless other claims are made on that portion of the payment. The department must receive a request for release of a joint owner's share within 15 days of the date of the preoffset notice. The request may be made by either owner.

98.81(5) *Final disposition of offset.* The department shall notify an obligor of the final decision regarding the claim against the offset by sending a final disposition of support recovery claim notice to the obligor.

98.81(6) *Distribution of offset amount.* Offsets shall be applied in accordance with rules 441—95.3(252B) and 441—95.4(252B).

98.81(7) *Percentage of payment offset.* The amount of offset shall be 50 percent of the total payment due the obligor, unless the payment results from lottery winnings, from gambling winnings, or from a payment for a claim under treasurer of state rules on unclaimed property at 781—Chapter 9, in which case the amount of offset shall be 100 percent of the payment. The amount taken shall not exceed the delinquent amount owed by the obligor.

This rule is intended to implement Iowa Code sections 252B.3 and 252B.4 and Iowa Code subsection 8A.504(2).

[ARC 9177B, IAB 11/3/10, effective 1/1/11]

441—98.82 to 98.90 Reserved.

DIVISION VII
ADMINISTRATIVE LEVY

441—98.91(252I) *Administrative levy.* When there is a delinquency in an amount equal to the ordered support payable for one month, the child support recovery unit may issue an administrative levy to the obligor's financial institution.

441—98.92 Reserved.

441—98.93(252I) *Verification of accounts.* The unit may contact a financial institution to obtain verification of the account number, the names and social security numbers listed on the account, and the account balance for an obligor's account. This contact may be by telephone or written communication on Form 470-3170, Asset Verification Form, or by computer printout.

441—98.94(252I) *Notice to financial institution.* The unit may send a notice to the financial institution with which the account is placed, directing that the financial institution forward to the collection services center all or a portion of the moneys in the obligor's account or accounts on the date the notice is received. The notice shall be sent by first-class mail, with proof of service completed according to rule of civil procedure 82. The notice to the financial institution shall contain all of the information specified in Iowa Code chapter 252I.

441—98.95(252I) *Notice to support obligor.* The unit shall notify an obligor, and any other party known to have an interest in the account, of the action. The notice shall contain all of the information specified in Iowa Code chapter 252I. The unit shall forward the notice by first-class mail within two working days of sending the notice to the financial institution. Proof of service shall be completed according to Iowa Rules of Civil Procedure 82.

441—98.96(252I) *Responsibilities of financial institution.* Upon receipt of the notice of administrative levy, the financial institution shall follow procedures specified in Iowa Code section 252I.7 for encumbering and forwarding funds to collection services center. The financial institution shall encumber only the funds in the obligor's account on the day the notice is received. Any deposits made

by the obligor after notice is received by the financial institution are not subject to the administrative levy process unless another notice is issued to the financial institution.

441—98.97(252I) Challenging the administrative levy. An obligor or an account holder of interest may challenge the administrative levy by submitting a written challenge to the person identified as the contact for the unit in the notice, within ten working days of the date of the notice to the obligor as specified in rule 441—98.95(252I). Upon receipt of a challenge, the unit shall follow criteria and procedures specified in Iowa Code section 252I.8 for resolving the challenge.

98.97(1) *Review of facts.* The unit shall, upon receipt of a written challenge, review the facts of the case with the challenging party. Only a mistake of fact including, but not limited to, a mistake in the identity of the obligor or a mistake in the amount of delinquent support due shall be considered as a reason to dismiss or modify the proceeding. If the unit determines that a mistake of fact has occurred, the unit shall proceed as follows:

a. If a mistake in identity has occurred or the obligor is not delinquent in an amount equal to the payment for one month, the unit shall notify the financial institution and the obligor that the administrative levy has been released.

b. If the amount of support due was incorrectly overstated, the unit shall notify the financial institution to release the excess moneys to the obligor and remit the remaining moneys.

98.97(2) *Refunds of amounts improperly held.* If a mistake of fact has occurred and money has already been forwarded from the financial institution, the unit shall proceed as follows:

a. If a mistake in identity has occurred or the obligor is not delinquent in an amount equal to the payment for one month, the unit shall refund the funds to the account and reimburse the account for any fees assessed by the financial institution.

b. If the amount of support due was incorrectly overstated, the unit shall refund a portion to the account. The unit is not required to reimburse the account for fees.

98.97(3) *Request for district court hearing.* If no mistake of fact is found, the unit shall send a notice to the challenging party by first-class mail. An obligor or an account holder may submit a second written challenge to the person identified as the contact for the unit in the notice, within ten working days of the date of the notice. The unit shall request a hearing before the district court in the county the support order is filed. Procedures for filing a hearing are specified in Iowa Code chapter 252I.

98.97(4) *Request for withdrawal.* The challenging party may withdraw the challenge by submitting a written withdrawal to the person identified as the contact person for the unit in the notice at any time prior to the court hearing. The unit may withdraw the administrative levy at any time prior to the court hearing. The unit shall provide notice of the withdrawal to the financial institution and any account holder of interest by first-class mail.

These rules are intended to implement Iowa Code chapter 252I.

441—98.98 to 98.100 Reserved.

DIVISION VIII
LICENSE SANCTION

441—98.101(252J) Referral for license sanction. In the process referred to as license sanction, the child support recovery unit (CSRU) may refer an individual to a licensing agency for the suspension, revocation, nonissuance, or nonrenewal of a variety of licenses including, but not limited to, motor vehicle registrations, driver's licenses, business and professional licenses, and licenses for hunting, fishing, boating, or other recreational activity. In order to be referred to a licensing agency for license sanction, one of the following must apply:

98.101(1) *Delinquent support payments.* An obligor's support payments must be delinquent in an amount equal to the support payment for three months. CSRU may first refer for license sanction those obligors having the greatest number of months of support delinquency. CSRU shall not refer obligors whose support payments are being made under an income withholding order.

98.101(2) Subpoena or warrant. An individual must have failed to comply with a subpoena or warrant, as defined in Iowa Code chapter 252J, relating to a paternity or support proceeding. If a subpoena was issued, the individual must have failed to comply with either Form 470-3413, Child Support Recovery Unit Subpoena, or an Interstate Subpoena as provided in paragraph 96.2(1)“a” within 15 days of the issuance of the subpoena, and proof of service of the subpoena was completed according to Rule of Civil Procedure 82.

441—98.102(252J) Reasons for exemption. Certain conditions shall be considered valid reasons for exemption from the license sanction process. Upon verification of these conditions, CSRU shall bypass, exempt, or withdraw the individual’s name from referral to licensing agencies for the purpose of applying a license sanction. When the information to verify the exemption is not available to CSRU through on-line sources, CSRU shall request, and the individual shall provide, verification of the reason for exemption. Valid reasons for exemption for failure to comply with a subpoena or warrant and acceptable verification are those listed in subrules 98.102(2), 98.102(3), 98.102(5), and 98.102(6). Valid reasons for exemption for delinquent support payments and acceptable verification are any of the following:

98.102(1) Receipt of social security, supplemental security income (SSI) or the family investment program (FIP). Receipt of social security, SSI, FIP, or county assistance (general relief, general assistance, community services, veteran’s assistance), based upon the eligibility of the obligor, is considered a valid reason for exemption when verified by information contained in on-line sources available to CSRU or written verification from the agency providing the benefits.

98.102(2) Temporary illness or disability. Temporary illness or disability of the individual or illness or disability of another household member which requires the presence of the individual in the home as caretaker is considered a valid reason for exemption upon receipt of a completed Form 470-3158, Physician’s Statement, verifying the individual’s or household member’s inability to work.

98.102(3) Incarceration. Incarceration is considered a valid reason for exemption when verified through on-line information available to CSRU or upon receipt of verification from the institution.

98.102(4) Job training. Participation in a job-training or job-seeking program through the department of employment services as a result of receiving food stamps is considered a valid reason for exemption upon receipt of verification from the department of employment services or verification through on-line information available to CSRU or upon receipt of a written statement from an income maintenance worker.

98.102(5) Chemical dependency treatment. Participation in a chemical dependency treatment program that is licensed by the department of public health or the joint commission on the accreditation of hospitals (JCAH) is considered a valid reason for exemption upon receipt of written verification from the professional staff of the program that participation in the program precludes the individual from working.

98.102(6) Contempt process. Involvement in a contempt action dealing with support issues is considered a valid reason for exemption from the license sanction process during the pendency of the contempt action.

441—98.103(252J) Notice of potential sanction of license. When an individual meets the criteria for selection, CSRU may issue a notice to the individual of the potential sanction of any license held by the individual, using Form 470-3278, Official Notice of Potential License Sanction.

98.103(1) Delinquent support payments. CSRU shall inform the obligor that the obligor may make immediate payment of all current and past due child support, schedule a conference to review the action of CSRU, or request to enter into a payment agreement with the unit. CSRU shall follow the procedures and requirements of Iowa Code chapter 252J regarding the issuance of the notice and the holding of a conference.

98.103(2) Subpoena or warrant. CSRU shall inform the individual that the individual may comply with the subpoena or warrant, or schedule a conference to review the action of CSRU. CSRU shall follow the procedures and requirements of Iowa Code chapter 252J regarding the issuance of the notice and the holding of a conference.

98.103(3) *Certificate of noncompliance.* If an individual fails to respond in writing to the notice within 20 days, or if the individual requests a conference and fails to appear, the unit shall issue a Certificate of Noncompliance, Form 470-3274, to applicable licensing authorities in accordance with Iowa Code section 252J.3.

441—98.104(252J) Conference.

98.104(1) *Scheduling of conference.* Upon receipt from an individual of a written request for a conference, CSRU shall schedule a conference not more than 30 days in the future. At the request of either CSRU or the individual, the conference may be rescheduled one time. When setting the date and time of the conference, if notice was sent to an obligor under subrule 98.103(1), CSRU shall request the completion of Form 470-0204, Financial Statement, and other financial information from both the obligor and the obligee as may be necessary to determine the obligor's ability to comply with the support obligation.

98.104(2) *Payment calculation.* If notice was sent to an obligor under subrule 98.103(1) during the conference held in compliance with the provisions of Iowa Code section 252J.4, CSRU shall determine if the obligor's ability to pay varies from the current support order by applying the mandatory supreme court guidelines as contained in 441—Chapter 99, Division I, with the exception of subrules 99.4(3) and 99.5(5). If further information from the obligor is necessary for the calculation, CSRU may schedule an additional conference no less than ten days in the future in order to allow the obligor to present additional information as may be necessary to calculate the amount of the payment. If, at that time, the obligor fails to provide the required information, CSRU shall issue a Certificate of Noncompliance, Form 470-3274, to applicable licensing authorities. If the obligee fails to provide the necessary information to complete the calculation, CSRU shall use whatever information is available. If no income information is available for the obligee, CSRU shall determine the obligee's income in accordance with 441—subrules 99.1(2) and 99.1(4). This calculation is for determining the amount of payment for the license sanction process only, and does not modify the amount of support obligation contained in the underlying court order.

98.104(3) *Referral for review and adjustment.* If the amount calculated in subrule 98.104(2) meets the criteria for review and adjustment as specified in rule 441—99.62 (252B,252H), or administrative modification as specified in rule 441—99.82(252H) and 441—subrules 99.83(1), 99.83(2) and 99.83(6) at the time CSRU provides the payment agreement to the obligor, CSRU shall also provide the obligor with any necessary forms to request a review and adjustment or administrative modification of the support obligation. The payment agreement remains in effect during the review and adjustment or administrative modification process.

441—98.105(252J) Payment agreement. The License Sanction Payment Agreement, Form 470-3273, shall require the obligor to pay the lower of the amount calculated in subrule 98.104(2) or the maximum amount payable under an income withholding order as specified in rule 98.24(252D).

98.105(1) *Duration of payment agreement.* The License Sanction Payment Agreement signed under this division shall remain in effect for at least one year from the date of issuance unless CSRU determines the obligor has a valid reason for exemption as specified in rule 98.102 (252J). Except in those cases in which review and adjustment are in process, CSRU may, at the end of the year, begin the process of reviewing the case to ensure that the payment amount continues to accurately reflect the obligor's ability to pay as calculated in subrule 98.104(1).

98.105(2) *Failure to comply.* If at any time following the signing of a payment agreement the obligor fails to comply with all the terms of the agreement, CSRU shall issue a Certificate of Noncompliance, Form 470-3274, to applicable licensing authorities in accordance with the provisions of Iowa Code chapter 252J.

441—98.106(252J) Staying the process due to full payment of support. If the obligor, at any time, pays the total support owed, both current and past due, or an individual complies with the subpoena or warrant, CSRU shall stay the process, and any Certificate of Noncompliance, Form 470-3274, which has been issued shall be withdrawn by CSRU.

441—98.107(252J) Duration of license sanction. The Certificate of Noncompliance, Form 470-3274, shall remain in effect until the obligor pays all support owed, both arrears and current; or the obligor enters into a payment agreement with CSRU; or the obligor meets one of the criteria for exemption specified at subrules 98.102(1), 98.102(2), and 98.102(4); or the individual complies with the subpoena or warrant.

These rules are intended to implement Iowa Code chapter 252J as amended by 1997 Iowa Acts, House File 612, division X.

441—98.108 to 98.120 Reserved.

DIVISION IX
EXTERNAL ENFORCEMENT

PREAMBLE

This division implements provisions of 1997 Iowa Acts, House File 612, sections 35 and 244, which provide for enforcement of child support arrearages by external sources. These sources are entities under contract to collect difficult-to-collect arrearages and private attorneys acting independently of the unit but with the unit's consent. The rules provide criteria and procedures for referral of delinquent support to collection contractors, assessment of the statutory surcharge, and opportunity for the delinquent parent to contest. The rules also provide a procedure to allow state payment to private attorneys enforcing child support recovery unit (CSRU) cases and provide criteria to exempt cases from the procedure.

441—98.121(252B) Difficult-to-collect arrearages. The child support recovery unit may refer difficult-to-collect arrearages to a collection entity under contract with the unit or with another state entity. Upon referral, a surcharge, in addition to the support, shall be due and payable by the obligor as provided in 1997 Iowa Acts, House File 612, section 244.

98.121(1) *Difficult-to-collect arrearage.* A difficult-to-collect arrearage is one based upon a court or administrative order which meets all the following criteria:

- a. There is no order for current support and only an arrearage is owing.
- b. There has been no payment, except for federal or state tax refund offset payments, in the past three months.
- c. There is no valid reason for exemption from the referral and surcharge process. Valid reasons for exemption and acceptable verification are those listed in subrules 98.102(1), 98.102(3), and 98.102(6). Upon verification of those conditions, the child support recovery unit shall bypass or exempt the obligor's arrearages from the referral and surcharge process. When the information to verify the exemption is not available to the child support recovery unit through on-line sources, the child support recovery unit shall request, and the obligor shall provide, verification of the reason for exemption.

98.121(2) *Notice of the possibility of referral and surcharge.* The child support recovery unit shall provide notice of the possibility of a referral and surcharge to the obligor as required by 1997 Iowa Acts, House File 612, section 244. The notice shall be provided at least 15 days before the unit sends the notice of referral and surcharge to the obligor, subject to the following:

- a. *Notification contained in order.* When the support order under which the arrearage has accrued contains language advising of statutory provisions for referral and surcharge, no other preliminary notice shall be required.
- b. *Notification issued by the child support recovery unit.* When the support order under which the arrearage has accrued does not contain language regarding the statutory provisions for referral and surcharge, or was entered under a foreign jurisdiction and notification was not included in the support order or provided as a separate written notice, the child support recovery unit shall issue Form 470-3412, Legal Notice of Referral and Surcharge, to the obligor. The notice shall be sent by regular mail to the obligor's last-known address.

98.121(3) Notice of referral and surcharge. The child support recovery unit shall send notice of a referral and surcharge to the obligor by regular mail to the obligor's last-known address, with proof of service completed according to Rule of Civil Procedure 82. The notice shall contain all the information required by 1997 Iowa Acts, House File 612, section 244. The notice shall be sent at least 30 days before the unit refers the arrearage to the collection entity.

98.121(4) Contesting the referral and surcharge. An obligor may contest the referral and surcharge. The right to contest is limited to a mistake of fact including but not limited to a mistake in the identity of the obligor, a mistake as to whether there was a payment in the three months before the date of the notice specified in subrule 98.121(3), a mistake as to whether an exemption in paragraph 98.121(1) "c" applies, or a mistake in the amount of arrearages.

a. An obligor may contest the referral and surcharge by submitting a written request for a review to the unit within 20 days of the date on the notice of referral and surcharge specified in subrule 98.121(3). Upon receipt of a written request for review, the unit shall follow the criteria and procedures specified in 1997 Iowa Acts, House File 612, section 244, for resolving the request.

(1) If the unit determines there is a mistake in the identity of the obligor, if there was a payment, other than a federal or state income tax offset, within the three months before the date of the notice specified in subrule 98.121(3), or if there is another mistake of fact and the arrearage does not meet the criteria for referral, the unit shall issue a written notice to the contestant or obligor of the determination and not refer the arrearages. If the unit later determines an arrearage may be subject to referral, it shall issue a new notice as provided in subrule 98.121(3).

(2) If the unit determines there was a mistake in the amount of arrearages, but the corrected amount of arrearages will still be referred, or if the unit determines there is no mistake of fact, the unit shall issue a written notice of the determination of the review to the obligor by regular mail to the last-known address of the obligor. The notice shall include the amount of the arrearages that will be referred and the surcharge which will be assessed. The notice shall also include information on requesting an additional review by the bureau chief, and on requesting a judicial hearing. For purposes of this rule, bureau chief shall mean "bureau chief" as defined in rule 441—95.1(252B).

b. An obligor may contest the notice of determination of review by submitting a written request for an additional review by the bureau chief within 20 days of the date of the notice of determination of the review issued under paragraph "a." Upon receipt of the written request for additional review, the bureau chief shall review the facts of the case.

(1) If the bureau chief determines a mistake in the identity of the obligor has occurred, if there was a payment, other than a federal or state income tax offset, within the three months before the date of the notice specified in subrule 98.121(3), or if there is another mistake of fact and the arrearage does not meet the criteria for referral, the bureau chief shall issue a written notice to the contestant or obligor of the determination and the arrearages shall not be referred. If the unit later determines an arrearage may be subject to referral, it shall issue a new notice as provided in subrule 98.121(3).

(2) If the bureau chief determines that there was a mistake in the amount of the arrearage but the corrected amount of arrearages will still be referred, or if there is no mistake of fact, the bureau chief shall send a written notice of the additional review determination to the obligor by regular mail to the last-known address of the obligor. The notice shall include the amount of the arrearage that will be referred and the surcharge which will be assessed. The notice shall also include information on requesting a judicial hearing.

c. Following the issuance of a notice of determination of a review under paragraph "a," or issuance of a notice of determination of an additional review under paragraph "b," the obligor may request a district court hearing. The obligor shall make a request by sending a written request for a hearing to the unit within ten days of the date of the unit's written determination of the review, or within ten days of the date of the bureau chief's written determination of an additional review, whichever is later. Procedures for a district court hearing are specified in 1997 Iowa Acts, House File 612, section 244.

d. The unit shall not refer arrearages and assess a surcharge until after completion of any review, additional review or judicial hearing process.

98.121(5) Referral and surcharge.

a. If the obligor has not paid the arrearage, has not contested the referral, or if, following the unit's review, the bureau chief's additional review, and any judicial hearing, the unit, bureau chief, or court does not find a mistake of fact, the arrearage shall be referred to the collection entity.

b. The amount of the arrearage referred shall be the amount that is unpaid as of the date of the referral. The amount of the surcharge shall be an amount equal to the amount of the arrearage unpaid as of the date of the referral, multiplied by the percentage specified in the contract with the collection entity.

c. The child support recovery unit shall file Form 470-3411, Notice of Surcharge, with the clerk of the district court in the county in which the underlying support order is filed.

This rule is intended to implement 1997 Iowa Acts, House File 612, section 244.

441—98.122(252B) Enforcement services by private attorney entitled to state compensation. An attorney licensed to practice law in Iowa may utilize judicial proceedings to collect support, at least a portion of which is assigned support, and be entitled to compensation by the state as provided in 1997 Iowa Acts, House File 612, section 35.

98.122(1) Eligible cases. To be eligible for attorney services with compensation under this rule, a case must meet all of the following:

a. The child support recovery unit is providing services under Iowa Code chapter 252B.

b. The current support obligation is terminated and only arrearages are due under the administrative or court order.

c. There has been no payment under any order in the case for at least a 12-month period prior to the provision of the notice from the attorney to the unit under paragraph "f."

d. At least a portion of the arrearages due under any order in the case is assigned to the state because cash assistance was paid under 1997 Iowa Acts, Senate File 516, sections 2 through 24 and 35.

e. The case does not have any of the following characteristics:

(1) There has been a finding of good cause or other exception pursuant to Iowa Code section 252B.3 as amended by 1997 Iowa Acts, House File 612, section 26.

(2) A portion of the arrears is assigned to another state because of public assistance provided by that state.

(3) Another attorney has already notified the unit of the intent to initiate a judicial proceeding to collect support due under any order in the same case under this rule, and either the time to receive the collection has not expired or the unit has not received a notice from the other attorney that the judicial proceeding has concluded prior to the expiration of the time period.

(4) If the notice from the attorney under paragraph "f" specifies contempt of court as the judicial proceeding, and the unit has generated a seek employment order to the obligor under Iowa Code section 252B.21 less than nine months prior to the date on the notice from the attorney.

(5) The case or arrearages have been referred by the child support recovery unit to a collection entity under Iowa Code section 252B.5, subsection 3, as amended by 1997 Iowa Acts, House File 612, section 30, or 1997 Iowa Acts, House File 612, section 244, less than nine months prior to the date on the notice from the attorney.

(6) The obligor has filed for bankruptcy and collection activities are stayed.

(7) The notice from the attorney under paragraph "f" lists a specific judicial proceeding and the unit has already initiated the same type of proceeding in court.

(8) The case has been referred to the U.S. Attorney's office and is still pending at that office.

f. The attorney has provided written notice to the central office of the child support recovery unit in Des Moines, as specified in subrule 98.122(2), and to the last-known address of the obligee of the intent to initiate a specified judicial proceeding to collect support on any identified court or administrative order involving the obligor and obligee in the case.

g. The attorney has provided documentation of insurance to the unit as required by 1997 Iowa Acts, House File 612, section 35.

h. The collection must be received by the collection services center within 90 days of the notice from the attorney in paragraph "f," or within a subsequent 90-day extension period.

98.122(2) Procedure.

a. To begin the process under this rule, the attorney shall submit the following to the External Services Process Specialist, Bureau of Collections, Iowa Department of Human Services, Hoover Building, Fifth Floor, Des Moines, Iowa 50319-0114 at least 30 days prior to initiating the specified judicial proceeding:

(1) A dated, written statement which lists the specific judicial proceeding which the attorney intends to initiate, any court or administrative order under which the arrearages accrued identified by the order number, and the names of the obligor and obligee.

(2) Documentation that the attorney is insured as required by the statute. Documentation shall be either a copy of the attorney's policy from the insurer, or a letter from the insurer verifying insurance coverage as required by the statute.

(3) Documentation that the attorney is licensed to practice law in Iowa.

b. The unit shall mail a response to the attorney within ten days of receipt of the notice from the attorney. All of the following shall apply to the unit's response:

(1) If the case meets the requirements of this rule, the notice shall list the case number, any order numbers, the judicial proceeding specified by the attorney, the balance due the state of Iowa, the balance due an obligee, and the date that is 90 days from the date of the notice from the attorney. The notice shall also contain a statement that any compensation due the attorney as a result of application of this rule will be calculated on the amount of support credited to arrearages due the state at the time the support paid as a result of the judicial proceeding is received by the collection services center. The notice shall also contain a statement that any support collected shall be disbursed in accordance with federal requirements, and any support due the obligee shall be disbursed to the obligee prior to disbursement to the attorney as compensation.

(2) If the case does not meet the requirements of this rule, the notice shall list the case number, any order number, and the reason the case does not meet the requirements.

c. If the case is eligible under this rule, the attorney may initiate judicial proceedings after 30 days after providing the notice to child support recovery unit in paragraph "*a.*" Section 35 of 1997 Iowa Acts, House File 612, defines "judicial proceedings."

d. The attorney may extend the time to complete the judicial proceeding or to allow for receipt of the collection by the collection services center by submitting a notice requesting a 90-day extension to the address in paragraph "*a.*" This or any subsequent notice must be received by the unit before expiration of the current 90-day time frame. The child support recovery unit shall acknowledge receipt of the subsequent notice and list on the acknowledgment the date that is 90 days from the date of the attorney's subsequent notice.

98.122(3) Collection and payment to attorney.

a. Upon compliance with the requirements of 1997 Iowa Acts, House File 612, section 35, and this rule, the attorney shall be entitled to compensation from the state as provided for in this rule.

b. Upon receipt of a file-stamped copy of a court order which identifies the amount of support collected as a result of the judicial proceeding and which does not order the payment of attorney fees by the obligor, and the receipt of the collection by the collection services center, all the following apply:

(1) Section 35 of 1997 Iowa Acts, House File 612, specifies the formula to calculate the compensation due the attorney from the state. The child support recovery unit shall calculate the compensation due the attorney based upon the amount of support which is credited to arrearages due the state at the time the collection is received by the collection services center. After calculating the amount due the attorney, the unit shall reduce the amount due the attorney by the amount of any penalty or sanction imposed upon the state as a result of any other judicial proceeding initiated by that attorney under 1997 Iowa Acts, House File 612, section 35. The child support recovery unit shall send the attorney a notice of the amount of the compensation due from the state.

(2) The collection services center shall disburse any support due an obligee prior to payment of compensation to the attorney.

(3) The child support recovery unit shall not authorize disbursement of compensation to the attorney until the later of 30 days after receipt of the collection and the file-stamped copy of the order, or resolution of any timely appeal by the obligor or obligee.

(4) The amount of compensation due the attorney is subject to judicial review upon application to the court by the attorney.

This rule is intended to implement 1997 Iowa Acts, House File 612, section 35.

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¹See 2005 Iowa Acts, Senate File 350, section 20.

²See 2007 Iowa Acts, chapter 218, sections 186 and 187, and 2008 Iowa Acts, chapter 1019, section 18 (rule nullified effective July 1, 2009).

STATE PUBLIC DEFENDER[493]

Created within the Department of Inspections and Appeals[481] by Iowa Code section 13B.2

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CHAPTER 1 ADMINISTRATION

493—1.1(13B) Scope. This chapter sets forth the organizational structure of the state public defender system and describes its purpose. See 493—Chapter 7 for definitions of terms used in this chapter.

493—1.2(13B) Function. The position of state public defender is established by Iowa Code chapter 13B. The state public defender is charged with the supervision of the operation of the state public defender system and with the coordination of the provision of legal defense representation of indigent persons in the state of Iowa.

493—1.3(13B) Overall organization and method of operations.

1.3(1) State public defender system. The state public defender system is administered by the state public defender. The system consists of three divisions: an administrative division, a local public defender division, and an appellate division.

1.3(2) Types of cases. Based on statutes and appropriate case law, the state public defender system provides representation for persons found to be indigent in the following types of cases:

- a. Felonies;
- b. Misdemeanors, if there exists a potential for jail sentence;
- c. Juvenile matters, including delinquency, termination of parental rights, child in need of assistance (CINA), judicial bypass proceedings, and juvenile commitments;
- d. Probation and parole revocation cases;
- e. Civil commitment proceedings under Iowa Code chapter 229A; and
- f. Other matters authorized by law.

1.3(3) State public defender. The state public defender is appointed by the governor, subject to confirmation by the senate. The state public defender is the chief administrative officer of the state public defender system and in that capacity coordinates the legal representation of indigent clients in criminal, juvenile and related cases in Iowa. The duties of the state public defender include, but are not limited to:

- a. Supervising the operations of the local public defender offices;
- b. Acting as chief legal officer of the state public defender system;
- c. Preparing and submitting the annual budget, personnel and employment policies, and preparing an annual report of the activities of the office;
- d. Determining locations for establishing future local public defender offices;
- e. Coordinating the provision of legal representation of all indigents under arrest or charged with a crime, on appeal in criminal cases, in a proceeding to obtain postconviction relief when ordered to do so by the court, against whom a contempt action is pending, in proceedings under Iowa Code chapter 229A, in juvenile cases under Iowa Code chapter 232, or in probation or parole violations under Iowa Code chapter 908;
- f. Filing with the clerk of court in each county served by a public defender a designation of which local public defender office shall receive notice of appointment of cases;
- g. Contracting with licensed attorneys in the state to provide legal services to indigent persons where there is no local public defender available to provide such services; and
- h. Reviewing claims for indigent defense services and costs and participating in hearings regarding claims.

1.3(4) Administrative division. The administrative division carries out all the duties of the state public defender including, but not limited to: budget preparation, processing claims for payment of public defender-related costs and expenses, coordinating hiring and disciplinary matters, maintaining statistics regarding case management and handling of cases, and all other administrative matters.

1.3(5) Local public defender division. The local public defender division provides legal representation at the trial level to qualified persons charged with adult crimes or in juvenile matters in counties where local public defender services are provided. The division also provides representation

to qualified persons in juvenile appeals and in civil commitment proceedings under Iowa Code chapter 229A at the trial and appellate levels.

The local public defender division consists of independent local offices and branch offices. Each independent local office is under the direct supervision of a local public defender. A local public defender may supervise a branch office. If so, the branch office may be considered part of the local office.

1.3(6) *Appellate division.* The appellate division is administered by the state appellate defender who reports directly to the state public defender. The appellate division provides legal representation to indigent clients in posttrial matters in the appellate courts of the state of Iowa.

1.3(7) *Civil commitment unit.* Rescinded IAB 12/28/11, effective 2/1/12.
[ARC 9938B, IAB 12/28/11, effective 2/1/12]

493—1.4(13B) Information. Information concerning the office of the state public defender or the state public defender system may be obtained by contacting the Office of the State Public Defender, Lucas State Office Building, Des Moines, Iowa 50319-0087; or by telephone (515)242-6158 or fax (515)281-7289. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding state holidays. The state public defender's Web site address is <http://spd.iowa.gov>.
[ARC 9938B, IAB 12/28/11, effective 2/1/12]

493—1.5(13B) Information. Rescinded IAB 12/28/11, effective 2/1/12.

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CHAPTER 4
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The state public defender adopts the fair information practices segments of the Uniform Administrative Rules which are printed in the first volume of the Iowa Administrative Code with the following amendments:

493—4.1(17A,22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “state public defender”.

493—4.3(17A,22) Requests for access to records.

4.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “state public defender”. In lieu of the words “(insert agency name and address)”, insert “Office of the State Public Defender, Lucas State Office Building, Des Moines, Iowa 50319-0087”.

4.3(2) Office hours. In lieu of the words “(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays”.

4.3(7) Fees.

c. *Supervisory fee.* In lieu of the words “(specify time period)”, insert “one hour”.

493—4.6(17A,22) Procedures by which additions, dissents, or objections may be entered into certain records. In lieu of the words “(designate office)”, insert “the office of the state public defender”.

493—4.9(17A,22) Disclosures without the consent of the subject.

4.9(1) Open records are routinely disclosed without the consent of the subject.

4.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without the consent of the subject:

- a. For a routine use as defined in rule 4.10(17A,22) or in the notice for a particular record system.
- b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.
- c. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.
- d. To the legislative services agency under Iowa Code section 2A.3.
- e. Disclosures in the course of employee disciplinary proceedings.
- f. In response to a court order or subpoena.

493—4.10(17A,22) Routine use. “Routine use” means the disclosure of a record without the consent of the subject or subjects for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

To the extent allowed by law, the following uses are considered routine uses of all agency records:

1. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.
2. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
3. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

4. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

493—4.11(17A,22) Consensual disclosure of confidential records.

4.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 4.7(17A,22).

4.11(2) *Complaints to public officials.* A letter from the subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

493—4.12(17A,22) Release to subject.

4.12(1) A written request to review confidential records may be filed by the subject of the record as provided in rule 4.6(17A,22). The agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5).)

d. Others authorized by law.

4.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the state public defender may take reasonable steps to protect confidential information relating to another subject.

493—4.13(17A,22) Availability of records.

4.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

4.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

b. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)

c. Records which are exempt from disclosure under Iowa Code section 22.7.

d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "d."

f. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122.11, the rules of evidence, the Code of Professional Responsibility, and case law. Attorney work product includes an itemization of work performed on an interim indigent defense fee claim form or claims resulting from a mistrial.

g. Criminal investigative reports. (Iowa Code section 22.7(5))

h. Any other records considered confidential by law.

493—4.14(22) Personally identifiable information. The state public defender maintains systems of records which contain personally identifiable information.

4.14(1) By authority of Iowa Code chapter 13B, the appellate defender division maintains information and records relating to criminal and postconviction relief cases that are being appealed. Records contain names and identifying numbers of persons involved in these cases. Case information is stored in a data processing system and may be compared with information in any data processing system. By authority of Iowa Code section 910A.13, the names of child victims shall not be disclosed.

Presentence investigation reports in the possession of the appellate defender are confidential records pursuant to Iowa Code section 901.4.

4.14(2) Litigation files. Litigation files or records contain information regarding litigation or anticipated litigation, which include judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain them from the clerk of the appropriate court which maintains the official copy.

4.14(3) Contracts. Contractual agreements are maintained by the state public defender. These records contain personally identifiable information when the agreement is with a specific individual. In those instances, the records include the name, address, and social security number of the contracting attorney. Other information in these records may include the proposal of the contracting attorney, budget figures, correspondence, and business information. Personally identifiable information is contained in a data processing system and may be compared with information in any data processing system.

4.14(4) Personnel files. Personnel files contain information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

493—4.15(17A,22) Other groups of records. Other groups of records are maintained by the state public defender other than the records described in rule 4.14(22). These records are routinely available to the public; however, the agencies' files may contain confidential information. The records may contain information about individuals. All records are stored on paper and in some cases in automated data processing systems.

4.15(1) Rule making. Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is available for public inspection and is not stored in an automated data processing system.

4.15(2) Commission records. Agendas, minutes, and materials presented to the indigent defense advisory commission are available from the office of the state public defender, except those records concerning closed sessions exempt under Iowa Code section 21.5(4). Commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier and is not stored in an automated data processing system.

4.15(3) Statistical reports. Periodic reports on the state public defender system and the delivery of indigent defense services are available from the office of the state public defender.

4.15(4) Address lists. Rescinded IAB 12/28/11, effective 2/1/12.
[ARC 9938B, IAB 12/28/11, effective 2/1/12]

These rules are intended to implement Iowa Code sections 17A.3, 22.7 and 22.11.

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CHAPTER 10
ELIGIBILITY GUIDELINES FOR COURT-APPOINTED COUNSEL
[Prior to 2/20/02, see 493—Chapter 13]

493—10.1(815) Eligibility. The eligibility of any person for legal assistance by an appointed attorney shall be determined in accordance with Iowa Code section 815.9 and with the guidelines set forth in these rules. Any person who is eligible for appointed counsel shall be required by the court to repay all or a part of the cost of the applicant's legal assistance.

493—10.2(815) Income guidelines. Annually, the state public defender shall provide information to the court showing the most recently revised poverty income guidelines.

493—10.3(815) Designation of eligibility reviewer. The chief judge of each judicial district may designate the person(s) or entity to evaluate the eligibility of a person for legal assistance by an appointed attorney. However, the decision to appoint counsel remains with the court.

493—10.4(815) Application. Any person claiming to be entitled to legal representation by an appointed attorney shall have an indigency evaluation before being provided legal representation. The applicant should provide information on an affidavit of financial status. This form will be prescribed by the state public defender, but any form containing substantially the same information will be accepted.

10.4(1) Affidavit. The applicant shall provide information required by the affidavit of financial status under penalty of perjury.

10.4(2) Family. The applicant shall provide information that accurately represents the number of family members who are supported by or live with the applicant.

10.4(3) Income. The applicant shall provide information that accurately represents the total gross income received or reasonably anticipated to be received by the applicant.

10.4(4) Household income. The applicant shall provide information that accurately represents the gross income of the household in which the applicant lives. The income of a spouse need not be included if the spouse is the alleged victim of the offense charged. The income of a child member of the household need not be included unless the legal representation is sought for the child in a delinquency proceeding.

10.4(5) Assets. The applicant shall provide information that accurately represents the total assets owned, in whole or in part, by the applicant. This includes the requirement to disclose interest in real property and tangible and intangible personal property.

10.4(6) Liabilities. The applicant shall provide information that accurately represents the total monthly debts and expenses for which the applicant is responsible. Child support and alimony payments should be included only when payments have been made in a timely manner.

10.4(7) Nature of proceedings. In a criminal case, the affidavit of financial status shall contain a statement of the charge(s) against the defendant. In a juvenile or civil case, a statement of the nature of the proceedings shall be included.

10.4(8) Child applicant. If the applicant is a child, the child's parent, guardian or custodian shall complete the affidavit of financial status. The affidavit of financial status shall include a statement of the income, assets and liabilities of the person or persons having a legal obligation to support the child.

10.4(9) Additional information. The applicant shall provide such additional information as may be required by the court to determine the applicant's eligibility for appointed counsel. The applicant has a continuing duty to update information provided in the affidavit of financial status to reflect changes in the information previously provided.

493—10.5(815) Evaluation of affidavit of financial status. In determining whether counsel should be appointed to represent the applicant, the court should consider the following:

10.5(1) Family size. The total size of the applicant's household shall be used to determine eligibility for appointed counsel.

10.5(2) *Household income.* The applicant's income, or the combined income of the applicant and the applicant's spouse if they are living in the same residence, shall be used in determining an applicant's household income, subject to the following:

a. The income of the applicant's spouse shall not be considered if the spouse is the alleged victim of the offense charged.

b. The income of a child shall not be considered unless the child is requesting representation in a delinquency case or unless the child is under a conservatorship or is the beneficiary of trust proceeds.

c. In a juvenile proceeding, the income of both parents shall be considered in determining whether the child is entitled to appointed counsel. If a child's parents are divorced, the household income of each parent shall be considered separately.

10.5(3) *DHHS poverty income guidelines.* The applicant's family size and household income shall be compared to the DHHS poverty income guidelines to determine whether the applicant's household income is 125 percent or less of the poverty level; between 125 percent and 200 percent of the poverty level; or 200 percent or greater of the poverty level.

10.5(4) *Income 125 percent or less of the poverty level.* If the applicant's household income is 125 percent or less of the poverty level, the applicant is entitled to appointed counsel unless the court determines that the applicant is able to pay for the cost of an attorney to represent the applicant on the pending charge. In determining whether the applicant is able to pay for the cost of an attorney, the court should consider not only the applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge.

10.5(5) *Income between 125 percent and 200 percent of the poverty level.* If the applicant's household income is greater than 125 percent, but less than 200 percent of the poverty level, the applicant is not entitled to appointed counsel unless the court determines and makes a written finding that not appointing counsel on the pending charge would cause the applicant substantial financial hardship. In determining whether substantial financial hardship would result, the court should consider not only the applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge.

10.5(6) *Income 200 percent or greater of the poverty level.* If the applicant's household income is 200 percent or greater of the poverty level, the applicant is not entitled to appointed counsel unless the applicant is charged with a felony and the court determines and makes a written finding that not appointing counsel on the pending charge would cause the applicant substantial financial hardship. In determining whether substantial financial hardship would result, the court should consider not only the applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge.

10.5(7) *Applicability to juvenile cases.* In evaluating whether to appoint counsel for a parent in a juvenile proceeding, the court shall consider not only the applicant's income, but also the availability of any assets subject to execution and the nature of the proceeding in determining whether the parent is financially unable to employ counsel.

493—10.6(815) Payment procedures.

10.6(1) *Payment to clerk.* An applicant who has been determined eligible for appointed counsel shall pay to the office of the clerk of the district court any sums ordered by the court. This order for payment may be entered during or following the pendency of the action.

10.6(2) *Wage assignments.* If the applicant is employed, the applicant shall execute an assignment of the applicant's wages. A portion of the applicant's wages, as determined by the court, shall be paid to the office of the clerk of the district court for recovery of attorney fees. This assignment of wages may be entered during or following the pendency of the action.

493—10.7(815) Forms. The state public defender shall promulgate forms to be used in court proceedings, including an Adult Affidavit of Financial Status, Juvenile Affidavit of Financial Status, Wage Assignment, and such other forms as the state public defender deems appropriate. Such forms

shall be available at the administrative office of the state public defender and published on the state public defender's Web site at <http://spd.iowa.gov>.

[ARC 9938B, IAB 12/28/11, effective 2/1/12]

These rules are intended to implement Iowa Code section 815.9.

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CHAPTER 12
CLAIMS FOR INDIGENT DEFENSE SERVICES

493—12.1(13B,815) Scope. This chapter sets forth the rules for submission, payment and court review of indigent defense fee claims. See 493—Chapter 7 for definitions of terms used in this chapter.

12.1(1) The state public defender will pay from the indigent defense fund attorney fees and costs for the following types of cases: commitment of sexually violent predators under Iowa Code chapter 229A; contempts; postconviction relief proceedings to the extent authorized under Iowa Code chapter 822; juvenile justice under Iowa Code section 232.141(3)(c); guardians ad litem for children in juvenile court under Iowa Code chapter 600 or respondents under Iowa Code chapter 600A; fees for appellate attorneys under Iowa Code section 814.11; fees to attorneys under Iowa Code section 815.7; fees for court-appointed counsel under Iowa Code section 815.10; violation of probation or parole under Iowa Code chapter 908; indigent's right to transcript on appeal under Iowa Code section 814.9; indigent's application for transcript in other cases under Iowa Code section 814.10; and special witnesses for indigents under Iowa Code section 815.4.

12.1(2) The state public defender will not pay for the costs for any type of administrative proceeding or any other proceeding under Iowa Code chapter 598, 600, 600A, 633, or 915 or other provisions of the Iowa Code.

12.1(3) The Iowa Code requires the state public defender to approve only those indigent defense fee claims that are reasonable and appropriate under applicable statutes. In exercising this duty, the state public defender publishes rules and makes judgments considering what is statutorily permitted, fair for claimants, fair for indigent clients (who, by law, are required to reimburse the state for the costs of their defense), and consistent with good stewardship of public appropriations.

493—12.2(13B,815) Submission and payment of attorney claims.

12.2(1) Court-appointed attorneys shall submit written claims to the state public defender for review, approval and payment. These claims shall include the following:

a. A completed fee claim on a form promulgated by the state public defender. Adult fee claims, including misdemeanor appeals to district court, postconviction relief and applications for discretionary review or applications for interlocutory appeals to the Iowa supreme court, must be submitted on an Adult form. Juvenile fee claims, including petitions on appeal and applications for interlocutory appeals, must be submitted on a Juvenile form. Appellate fee claims, including claims for work performed after the granting of an application for discretionary review or for interlocutory appeal, or if full briefing is ordered following a petition on appeal, must be submitted on an Appellate form. The claim forms may be downloaded from the state public defender Web site: <http://spd.iowa.gov>. Claims submitted that do not comply with the instructions on the Web site may be returned to the claimant for additional information and resubmission.

b. A copy of all orders appointing the attorney to the case.

(1) The appointment order must be signed by the court and either dated by the court or have a legible file-stamp.

(2) If, at the time of appointment, the attorney does not have a contract to represent indigent persons in the type of case and the county in which the action is pending, the appointment order must include either a finding that no attorney with a contract to represent indigent persons in that specific type of case and that county is available or a finding that the state public defender was consulted and consented to the appointment.

(3) Claims for probation or parole violations and contempt actions are considered new cases, and the attorney must submit a copy of an appointment order for these claims. Appointment orders in parole violation cases to which the attorney was appointed on or after May 5, 2005, must also contain the following findings:

1. The alleged parole violator requests appointment of counsel;
2. The alleged parole violator is indigent as defined in Iowa Code section 815.9;

3. The alleged parole violator, because of lack of skill or education, would have difficulty in presenting the alleged violator's version of a disputed set of facts, particularly when presentation requires the examining or cross-examining of witnesses or the offering or dissecting of complex documentary evidence; and

4. The alleged parole violator has a colorable claim that the alleged violation has not been committed, or there are substantial reasons which justify or mitigate the violation and make revocation inappropriate.

(4) If the venue is changed in a juvenile case, an order appointing the attorney in the new county must be submitted.

(5) An appointment order is not necessary for trial counsel to request or resist an interlocutory appeal or an application for discretionary review.

(6) An appointment order is not necessary if the state public defender determines the appointment order is unnecessary.

c. A copy of any application and court order authorizing the attorney to exceed the attorney fee limitations.

d. A copy of any court order that affects the amount to be paid or the client's right to counsel.

e. An itemization detailing all work performed on the case for which the attorney seeks compensation.

(1) The itemization must separately state the date and amount of time spent on each activity. Time may be reported in either tenths or hundredths of an hour on the itemization but must be recorded in tenths of an hour on the claim form. Time listed in hundredths of an hour on the claim form will be reduced to the nearest tenth of an hour.

(2) The itemization shall separately designate time claimed for in-court time, out-of-court time, paralegal time and travel time.

(3) The itemization must be in chronological order.

(4) The itemization must be typed in at least 10-point type on 8½" × 11" paper.

(5) If the itemization does not indicate the date of the disposition of the case, a copy of the dispositional order must be attached to the claim.

f. If the attorney was privately retained to represent the client prior to appointment, a copy of any representation agreement, written notice of the dollar amount paid to the attorney, and an itemization of services performed and how any funds provided were spent during the period prior to the court appointment. The state public defender will review the amount paid and hours spent before and after the court appointment in determining the appropriate attorney compensation on the claim.

12.2(2) The state public defender shall forward claims to the department for processing and payment only after all reporting requirements have been complied with and the claim has been approved by the state public defender. Claims returned to the attorney for additional information will be processed after the requested information is received.

12.2(3) Claims submitted prior to the date of service will be returned to the claimant and may be resubmitted for processing after the date of service.

12.2(4) Claims for compensation in excess of applicable rates are not payable under the attorney's appointment and will be reduced.

12.2(5) Claims for services rendered prior to the effective date of the attorney's appointment are not payable under the attorney's appointment, and that portion will be denied.

12.2(6) For cases to which the attorney is appointed after June 30, 2004, claims that are not timely will be denied. Time billed on claims which are denied, or which could have been denied, pursuant to this subrule may be included in subsequent claims if timely submitted with regard to a subsequent date of service in the same case. For purposes of this subrule, a probation, parole, or contempt proceeding shall not be deemed the "same case" as the underlying proceeding.

12.2(7) Claims for services that contain charges that are either not reasonable or not appropriate are not payable under the attorney's appointment and will be denied.

12.2(8) Claims for clerical activities, overhead, preparation of the fee claim or itemization of services; for obtaining, preparing, or reviewing an application or order to exceed the fee limitations; or

for preparation of a motion to review or order and any subsequent hearing for review of an attorney fee claim are not payable under the attorney's appointment and will be denied.

12.2(9) Claims for compensation from attorneys whose appointment as counsel or guardian ad litem at the appellate level does not comply with Iowa Code section 814.11 will be denied.

12.2(10) Claims for compensation from attorneys appointed as counsel or guardian ad litem at the trial level may be denied if the appointment does not comply with Iowa Code section 815.10.

a. Claims by attorneys whose appointment in a case as counsel or guardian ad litem at the trial level was made on or after July 1, 2009, shall be denied if the state public defender had filed a designation effective at the time of the appointment designating a local public defender, nonprofit corporation, or attorney to represent indigent persons in that type of case in the county in which the case was filed, unless the appointment order and any supporting documentation submitted with the claim demonstrate that:

(1) The state public defender's designee and any successor designee has withdrawn from the case or has been offered and declined to take the case; or

(2) The state public defender's designee and any successor designee would have withdrawn from or would have declined to take the case had the appointment been offered.

b. Claims by attorneys whose appointment in a case as counsel or guardian ad litem at the trial level was made on or after February 1, 2012, shall be denied unless:

(1) At the time of the appointment, the attorney had a contract with the state public defender to represent indigent persons in that specific type of case and that county in which the the action was pending; or

(2) The appointment order includes a specific finding that no attorney with a contract to represent indigent persons in that specific type of case and that county in which the action was pending is available or a finding that the state public defender was consulted and consented to the appointment.

12.2(11) Time and expenses claimed by an attorney in withdrawing from a case, or related to withdrawing from a case, in order to either retire from the practice of law or pursue another job will be denied.

12.2(12) The following applies to claims by a guardian ad litem for a child who is aged 18 or older and involved in a juvenile court proceeding:

a. The court must enter an order appointing the guardian ad litem for the limited purposes of continuing a relationship with the child and to provide advice to the child relating to the child's transition plan under Iowa Code section 232.2 beyond the child's eighteenth birthday.

b. Neither a parent nor guardian of the child in interest is entitled to court-appointed counsel during the post-age 18 transition period.

c. The guardian ad litem appointment shall end by the earlier of an order of the court relieving the guardian ad litem of further duties or an order of the court closing the juvenile court case.

12.2(13) A court order that affects the amount of a claim and is entered after the date of the state public defender's action, except following court review as provided in rule 493—12.9(13B,815), is void. See Iowa Code section 13B.4(4).

12.2(14) Time and expenses claimed by an attorney for representing a parent in a child in need of assistance case or termination of parental rights case for work performed subsequent to the date on which the termination of that parent's parental rights becomes final, either on appeal or because no appeal was taken, will be denied.

[ARC 8090B, IAB 9/9/09, effective 9/15/09; ARC 8372B, IAB 12/16/09, effective 1/20/10; ARC 9293B, IAB 12/29/10, effective 12/7/10; ARC 9447B, IAB 4/6/11, effective 5/11/11; ARC 9938B, IAB 12/28/11, effective 2/1/12]

493—12.3(13B,815) Interim claims. Claims will be paid at the conclusion of the case unless one of the following applies:

12.3(1) Juvenile cases. An initial claim for services in a juvenile case may be submitted after the dispositional hearing, if any. Subsequent claims may be submitted after each court hearing held in the case. A court hearing does not include family drug court, staffings or foster care review board hearings.

12.3(2) Appellate cases. A claim for work performed to date by an attorney having an appellate contract with the state public defender may be submitted in appellate cases after filing of the attorney's proof brief. A subsequent claim may be submitted at the conclusion of the case.

12.3(3) Specific cases. Interim claims in Class A felony cases may be submitted once every three months, with the first claim submitted at least 90 days following the effective date of the attorney's appointment.

12.3(4) Change of employment. If an attorney is changing law firms, the attorney may submit a claim to end billing at one firm and start billing at the new firm. If payments are to be made to someone other than the law firm which the attorney is leaving, both the attorney and the law firm must advise the state public defender in writing that the attorney is leaving the firm and where the payments should be made.

12.3(5) Other cases. In all other cases, claims filed prior to the conclusion of the case will not be paid except with consent of the state public defender.

12.3(6) Approval of interim claims. Approval of any interim claims shall not affect the right of the state public defender to review subsequent claims or the aggregate amount of the claims submitted.

493—12.4(13B,815) Rate of compensation. Unless the attorney has a contract that provides for a different manner or rate of payment, the following hourly rates shall apply to payment of all claims for cases to which the attorney was appointed after June 30, 1999, and before July 1, 2006:

Attorney time:	Class A felonies	\$60/hour
	Class B felonies	\$55/hour
	All other criminal cases	\$50/hour
	All other cases	\$50/hour
Paralegal time:		\$25/hour

Unless the attorney has a contract that provides for a different manner or rate of payment, the following hourly rates shall apply to payment of all claims for cases to which the attorney was appointed after June 30, 2006, and before July 1, 2007:

Attorney time:	Class A felonies	\$65/hour
	All other criminal cases	\$60/hour
	All other cases	\$55/hour
Paralegal time:		\$25/hour

Unless the attorney has a contract that provides for a different manner or rate of payment, the following hourly rates shall apply to payment of all claims for cases to which the attorney was appointed after June 30, 2007:

Attorney time:	Class A felonies	\$70/hour
	Class B felonies	\$65/hour
	All other criminal cases	\$60/hour
	All other cases	\$60/hour
Paralegal time:		\$25/hour

12.4(1) Applicability to juvenile cases. In a juvenile case to which the attorney was appointed before July 1, 1999, the state public defender will pay the attorney \$50 per hour for all services performed following the dispositional hearing or the first regularly scheduled review hearing occurring after June 30, 1999. In a juvenile case to which the attorney was appointed after June 30, 1999, but before July 1, 2006, the state public defender will pay the attorney \$55 per hour for all services performed following the dispositional hearing or the first regularly scheduled review hearing occurring after June 30, 2006. In

a juvenile case to which the attorney was appointed after June 30, 2006, but before July 1, 2007, the state public defender will pay the attorney \$60 per hour for all services performed following the dispositional hearing or the first regularly scheduled review hearing occurring after June 30, 2007. However, the attorney must file separate claims for services before and after said hearing. If a claim is submitted with two hourly rates on it, the claim will be paid at the lower applicable rate.

12.4(2) *Appointments before July 1, 1999.* In a case to which the attorney was appointed before July 1, 1999, attorney time shall be paid at a rate that is \$5 per hour less than the rates established pursuant to 2000 Iowa Acts, chapter 1115, section 10. Claims for compensation in excess of these rates are not payable under the attorney's appointment and will be reduced.

12.4(3) *Applicability to appellate contracts.* This rule shall not apply to claims from attorneys with appellate contracts with the state public defender.

12.4(4) *All other cases.* As used in this rule, the term "all other cases" includes appeals, juvenile cases, contempt actions, representation of material witnesses, and probation/parole violation cases, postconviction relief cases, restitution, extradition, and sentence reconsideration proceedings without regard to the level of the underlying charge.

493—12.5(13B,815) Appellate contracts. Subject to the provisions of this rule, an attorney who has entered into an appellate contract with the state public defender shall be paid pursuant to the terms of this rule for each appellate case to which the attorney is appointed. This rule applies to all appellate contract claims received by the state public defender on or after December 7, 2010.

12.5(1) *Frivolous appeals.* In an appeal in which the attorney withdraws from a case either based on a determination that the appeal is frivolous or for any other reason or in which the appeal is dismissed prior to the filing of the attorney's proof brief, the attorney shall be paid for all reasonable, necessary and appropriate hours claimed on the itemization at the rate of \$60 per hour.

12.5(2) *Juvenile cases.* For juvenile appeals, the following provisions apply.

a. In a juvenile case in which a petition on appeal is filed, an appointed trial attorney does not need to obtain an appointment order to pursue the petition on appeal. The claim, through the filing of the petition on appeal, must be submitted on a Juvenile form. If an appellate court orders full briefing, subsequent attorney fee claims must be submitted on an Appellate form. Any amount paid on the petition on appeal shall be considered in determining whether the attorney hours claimed on subsequent appellate claims are reasonable and necessary.

b. In an appellate case in which an appointed attorney joins in all or part of the brief of another party, the attorney shall be paid for all reasonable, necessary and appropriate legal services and expenses claimed on the itemization at the rate of \$60 per hour.

12.5(3) *Appeals from a guilty plea.* Notwithstanding the provisions of subrule 12.2(1), an attorney who has entered into an appellate contract with the state public defender and whose client is appealing from a judgment as the result of a guilty plea need not provide an itemization of legal services provided in the appeal if the amount of the attorney fee portion of the claim is \$600 or less. If the amount of the claim is in excess of \$600, the attorney must provide an itemization and will be paid for all reasonable, necessary and appropriate legal services claimed on the itemization at the rate of \$60 per hour, together with permissible out-of-pocket expenses.

12.5(4) *Appeals from a trial.* Notwithstanding the provisions of subrule 12.2(1), an attorney who has entered into an appellate contract with the state public defender and whose client is appealing from a judgment as the result of a jury trial or bench trial need not provide an itemization of legal services provided in the appeal if the amount of the attorney fee portion of the claim is \$1,800 or less. If the amount of the claim is in excess of \$1,800, the attorney must provide an itemization and will be paid for reasonable, necessary and appropriate legal services claimed on the itemization at the rate of \$60 per hour, together with permissible out-of-pocket expenses.

12.5(5) *Applications for further review.* In a case in which an application for further review is filed, the attorney will be paid for all reasonable, necessary and appropriate legal services claimed on the itemization at the rate of \$60 per hour, together with permissible out-of-pocket expenses.

12.5(6) *Application of fee limitations.* The fee limitations and procedures provided in rule 493—12.6(13B,815) have no application to appellate contracts.
 [ARC 9293B, IAB 12/29/10, effective 12/7/10; ARC 9447B, IAB 4/6/11, effective 5/11/11]

493—12.6(13B,815) Attorney fee limitations.

12.6(1) *Adult cases.* The state public defender establishes attorney fee limitations for combined attorney time and paralegal time for the following categories of adult cases:

Class A felonies	\$18,000
Class B felonies	\$3,600
Class C felonies	\$1,800
Class D felonies	\$1,200
Aggravated misdemeanors	\$1,200
Serious misdemeanors	\$600
Simple misdemeanors	\$300
Simple misdemeanor appeals to district court	\$300
Contempt/show cause proceedings	\$300
Proceedings under Iowa Code chapter 229A	\$10,000
Probation/parole violation	\$300
Extradition	\$300
Postconviction relief—the greater of \$1,000 or one-half of the fee limitation for the conviction from which relief is sought.	

Nothing in this subrule is intended to in any manner diminish, increase, or modify the state public defender's authority to review any and all claims for services as authorized by the Iowa Code.

The fee limitations are applied separately to each case, as that term is defined in rule 493—7.1(13B,815). If more than one charge is included within a case, the charge with the higher fee limitation will apply to the entire case.

For example, in an adult criminal proceeding, if an attorney were appointed to represent a client charged with four counts of forgery arising at four separate times, and if the client were charged in four separate trial informations, the fee limitations for each charge would apply separately. If all four charges were contained in one trial information, the fee limitation would be \$1,200 even if there were more than one separate occurrence. If the attorney were appointed to represent a person charged with a drug offense and failure to possess a tax stamp, the fee limitation would be the limitation for the offense with the higher limitation, not the total of the limitations.

If the Iowa Code section listed on the claim form defines multiple levels of crimes and the claimant does not list the specific level of crime on the claim form, the state public defender will use the least serious level of crime in reviewing the claim.

For example, Iowa Code section 321J.2 defines crimes ranging from a serious misdemeanor to a Class D felony. If the attorney does not designate the subsection defining the level of the crime, the state public defender will deem the charge to be a serious misdemeanor.

12.6(2) *Juvenile cases.* The state public defender establishes attorney fee limitations for attorney time for the following categories of juvenile cases:

Delinquency (through disposition)	\$1,200
Child in need of assistance (CINA) (through disposition)	\$1,200
Termination of parental rights (TPR) (through disposition)	\$1,800
Juvenile court review and other postdispositional court hearings	\$300
Judicial bypass hearings	\$180
Juvenile commitment hearings	\$180
Juvenile petition on appeal	\$600
Motion for further review after petition on appeal	\$300

Nothing in this subrule is intended to in any manner diminish, increase, or modify the state public defender's authority to review any and all claims for services as authorized by the Iowa Code.

The fee limitations are applied separately to each case, as that term is defined in rule 493—7.1(13B,815).

For example, in a juvenile proceeding in which the attorney represents a parent whose four children are the subject of four child in need of assistance petitions, if the court handles all four petitions at the same time or the incident that gave rise to the child in need of assistance action is essentially the same for each child, the fee limitation for the attorney representing the parent is \$1,200 for all four proceedings, not \$1,200 for each one.

For a child in need of assistance case that becomes a termination of parental rights case, the fee limitations shall apply to each case separately. For example, the attorney could claim up to \$1,200 for the child in need of assistance case and up to \$1,800 for the termination of parental rights case.

In a delinquency case, if the child has multiple petitions alleging delinquency and the court handles the petitions at the same time, the fee limitation for the proceeding is the fee limitation for one delinquency.

In a juvenile case in which a petition on appeal is filed, the appointed trial attorney does not need to obtain a new appointment order to pursue a petition on appeal. The claim, through the filing of a petition on appeal, must be submitted on a Juvenile form. If an appellate court orders full briefing, the attorney fee claim for services subsequent to an order requiring full briefing must be submitted on an Appellate form and is subject to the rules governing appeals.

12.6(3) Appellate cases. Except as provided in this subrule, the state public defender establishes an attorney fee limitation of \$2,400 for all reasonable, necessary, and appropriate legal services in appellate cases filed with the Iowa supreme court.

a. In an appeal to which the attorney was appointed after June 30, 1999, and before July 1, 2006, in which the attorney withdraws based on a determination that the appeal is frivolous or in which the appeal is dismissed prior to the filing of the attorney's proof brief, the attorney shall be paid at the rate of \$50 per hour, with an attorney fee limitation of \$1,000. In an appeal to which the attorney was appointed after June 30, 2006, and before July 1, 2007, in which the attorney withdraws based on a determination that the appeal is frivolous or in which the appeal is dismissed prior to the filing of the attorney's proof brief, the attorney shall be paid at the rate of \$55 per hour, with an attorney fee limitation of \$1,100. In an appeal to which the attorney was appointed after June 30, 2007, in which the attorney withdraws based on a determination that the appeal is frivolous or in which the appeal is dismissed prior to the filing of the attorney's proof brief, the attorney shall be paid at the rate of \$60 per hour, with an attorney fee limitation of \$1,200.

b. In an appellate case to which the attorney was appointed after June 30, 1999, and before July 1, 2006, in which an appointed attorney joins in all or part of the brief of another party, the attorney shall be paid at the rate of \$50 per hour, with an attorney fee limitation of \$500. In an appellate case to which the attorney was appointed after June 30, 2006, and before July 1, 2007, in which an appointed attorney joins in all or part of the brief of another party, the attorney shall be paid at the rate of \$55 per hour, with an attorney fee limitation of \$550. In an appellate case to which the attorney was appointed after June

30, 2007, in which an appointed attorney joins in all or part of the brief of another party, the attorney shall be paid at the rate of \$60 per hour, with an attorney fee limitation of \$600.

c. In a juvenile case in which a petition on appeal is filed, an appointed trial attorney does not need to obtain an appointment order to pursue the petition on appeal. The claim, through the filing of the petition on appeal, must be submitted on a Juvenile form. If an appellate court orders full briefing, subsequent attorney fee claims must be submitted on an Appellate form. Any amount paid on the petition on appeal shall be considered in determining whether subsequent appellate claims exceed the fee limitations.

This subrule does not apply to appellate cases to which an attorney with an appellate contract with the state public defender is appointed. See rule 493—12.5(13B,815).

12.6(4) *Claims in excess of fee limitations.* A claim in excess of the attorney fee limitations will not be paid unless the attorney seeks and obtains authorization from the appointing court to exceed the attorney fee limitations prior to exceeding the attorney fee limitations. If authorization is granted, payment in excess of the attorney fee limitations shall be made only for services performed after the date of submission of the request for authorization.

12.6(5) *Retroactivity of authorization.* Authorization to exceed the attorney fee limitations shall be effective only as to services performed after a request for authorization to exceed the attorney fee limitations is filed with the court unless the court enters an order before submission of the claim to the state public defender specifically authorizing a late filing of the application and finding that good cause exists excusing the attorney's failure to file the application prior to the attorney's exceeding the attorney fee limitations. "Good cause" as used in this subrule means a sound, effective and truthful reason. "Good cause" is more than an excuse, plea, apology, extenuation, or some justification. Inadvertence or oversight does not constitute good cause. Retroactive court orders entered after the date of the state public defender's action on a claim are void. See Iowa Code section 13B.4(4).

[ARC 9293B, IAB 12/29/10, effective 12/7/10; ARC 9447B, IAB 4/6/11, effective 5/11/11]

493—12.7(13B,815) Reimbursement for specific expenses.

12.7(1) The state public defender shall reimburse the attorney for the payments made by the attorney for necessary certified shorthand reporters, investigators, foreign language interpreters, evaluations, and experts, if the following conditions are met:

a. The attorney obtained court approval for a certified shorthand reporter, investigator, foreign language interpreter, evaluation or expert prior to incurring any expenses with regard to each.

b. A copy of the application and order granting authority accompanies the claim.

c. The certified shorthand reporter, investigator, foreign language interpreter, provider of an evaluation or expert does not submit a claim for the same services.

d. The attorney is seeking reimbursement for moneys already expended or certifies that the funds for these services will be used to pay for the certified shorthand reporter, investigator, foreign language interpreter, evaluation, or expert.

e. A copy of the court order authorizing the expense is attached to the claim.

f. In claims for services of investigators, foreign language interpreters, or experts, a copy of a court order setting the maximum dollar amount of the claim is attached to the claim.

g. In claims for the cost of an evaluation requested by an appointed attorney, the attorney will be reimbursed for the reasonable cost of an evaluation of the client to establish a defense in the case or to determine if the client is competent to stand trial. In either instance, a copy of the court order authorizing the evaluation for one of these specific purposes and an order approving the amount of the evaluation must accompany the claim form. Claims for the cost of an evaluation to be used for any other purpose, such as sentencing or placement, will not be reimbursed.

12.7(2) Nothing contained in this rule is intended to require the attorney to provide notice to any other party prior to seeking such an order or to require the attorney to disclose confidential information, work product, or trial strategy in order to obtain the order.

12.7(3) In an appeal, the state public defender will pay the cost of obtaining the transcript of the trial records and briefs. In such instance, paragraphs 12.7(1) "b" to "d" shall apply.

12.7(4) Claims for expenses that do not meet these conditions are not payable under the attorney's appointment and will be denied.

493—12.8(13B,815) Reimbursement of other expenses.

12.8(1) The state public defender shall reimburse the attorney for the following out-of-pocket expenses incurred by the attorney in the case to the extent that the expenses are reasonable and necessary:

a. Mileage for automobile travel at the rate of 35 cents per mile. The number of miles driven must be listed in the itemization of services and on the claim form. Other forms of transportation costs incurred by the attorney will be reimbursed with prior approval from the state public defender.

b. The actual cost of lodging, limited by the state-approved rate, is reimbursed only if the attorney is entitled to be paid for travel time for the travel associated with the lodging and the attorney is required to be away from home overnight.

c. The actual cost of meals, limited by the state-approved rate, is reimbursed only if the attorney is entitled to be paid for travel time for the travel associated with these meals.

d. Necessary photocopying at the attorney's office at the rate of 10 cents per copy. The number of copies made must be listed in the itemization of services or on the claim form.

e. Ordinary and necessary postage, toll calls, collect calls, and parking for the actual cost of these expenses. Toll and collect calls will be reimbursed at 10 cents per minute or the actual cost. A receipt for the actual cost must be attached to the claim form. A statement from a correctional facility or jail detailing a standard rate for such calls shall constitute a receipt for purposes of this paragraph. For parking in excess of \$2, a receipt must be attached to the claim form. Claims for the cost of a parking ticket will be denied.

f. Receiving faxes in the attorney's office at the rate of 10 cents per page. There is no direct cost reimbursement for sending a fax unless there is a toll charge associated with it.

g. The actual cost of photocopying or faxing for which the attorney must pay an outside vendor. A receipt for the actual cost must be attached to the claim form.

h. Other claims for expenses such as process service, medical records, videotapes and film will be reimbursed for the actual cost. A receipt or invoice from an outside vendor must be attached to the claim form.

i. Other specific expenses for which prior approval by the state public defender is obtained.

12.8(2) Claims for expenses other than those listed in this rule or at rates in excess of the rates set forth in this rule are not payable under the attorney's appointment and will be reduced or denied.

493—12.9(13B,815) Court review. An attorney whose claim for compensation is denied, reduced, or otherwise modified by the state public defender, for other than mathematical errors, may seek court review of the action of the state public defender.

12.9(1) *Motions for court review.* Court review of the action of the state public defender is initiated by the filing of a motion with the trial court requesting the review. The following conditions shall apply to all such motions:

a. The motion must be filed with the court within 20 days of the action of the state public defender. This time limit is jurisdictional and will not be extended by the filing of another claim or obtaining a court order affecting the amount of the claim.

b. The motion must set forth each and every ground on which the attorney intends to rely in challenging the action of the state public defender.

c. The motion must have attached to it a complete copy of the claim, together with the notice of action that the attorney seeks to have reviewed.

d. A copy of all documents filed must be provided to the state public defender.

e. It is unnecessary for the state public defender to file any response to the motion.

12.9(2) Hearings. The following shall apply to hearings on motions for court review:

a. The motion shall be set for hearing by the court. Notice of the hearing on the attorney's request for review shall be provided to the attorney and the state public defender at least ten days prior to the date and time set by the reviewing court.

b. Unless the state public defender appears or specifically indicates an intention to appear in person at the hearing, the state public defender shall participate by telephone. If the state public defender participates by telephone, the state public defender shall be responsible for initiating and paying for the telephone call. If the attorney intends to participate by telephone, the attorney shall notify the state public defender of this intent and provide a telephone number for the hearing at least two business days prior to the date scheduled for the hearing.

c. The burden shall be on the attorney requesting the review.

d. The court shall consider only the issues raised in the attorney's motion.

e. The court shall issue a written ruling on the issues properly presented in the request for review.

f. If a ruling is entered modifying the state public defender's action on the claim, the attorney must file a new claim with the state public defender within 45 days of the date of the court's order modifying the state public defender's action on the claim. A copy of the court's ruling must be attached to the claim form. The date of service on the claim form is the date of the court's order.

12.9(3) Failure to seek review. Failure to seek court review within 20 days of the action of the state public defender will preclude court review of the state public defender's action.

493—12.10(13B,815) Payment errors. If an error resulting in an overpayment or double payment of a claim is discovered, the claimant shall notify the clerk of court of the error and shall reimburse the department for the amount of the overpayment. An overpayment that is returned to the department shall be paid by check made payable to the "Treasurer, State of Iowa" and mailed to the Department of Inspections and Appeals, Indigent Defense Unit, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319. The attorney is responsible for notifying the clerk of court of any payment error.

These rules are intended to implement Iowa Code chapters 13B and 815.

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⁰ Two or more ARCs

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PROFESSIONAL LICENSURE DIVISION[645]

Created within the Department of Public Health[641] by 1986 Iowa Acts, chapter 1245.
Prior to 7/29/87, for Chs. 20 to 22 see Health Department[470] Chs. 152 to 154.

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CHAPTER 240
LICENSURE OF PSYCHOLOGISTS

645—240.1(154B) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“Board” means the board of psychology.

“Certified health service provider in psychology” means a person who works in a clinical setting, is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Licensee” means any person licensed to practice as a psychologist or health service provider in psychology in the state of Iowa.

“License expiration date” means June 30 of even-numbered years.

“Licensure by endorsement” means the issuance of an Iowa license to practice psychology to an applicant who is or has been licensed in another state.

“Mandatory training” means training on identifying and reporting child abuse or dependent adult abuse required of psychologists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“National examination” means the Examination for Professional Practice in Psychology (EPPP).

“Organized health service training program” means a training program designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose is ensuring breadth and quality of training.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—240.18(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice psychology to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of psychology to license persons who have the same or similar qualifications to those required in Iowa.

“Recognized health service setting” means a setting in which the delivery of direct preventive, assessment, and therapeutic intervention services are provided to individuals whose growth, adjustment or functioning is actually impaired or is demonstrably at high risk of impairment. The delivery of the aforementioned services includes, but is not limited to, the diagnosis or evaluation and treatment of mental illness and nervous disorders, excluding those mental illnesses and nervous disorders which are established as primarily of biological etiology with the exception of the treatment of the psychological and behavioral aspects of those mental illnesses and nervous disorders.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Supervisor” means a licensed psychologist who during the time in which supervision is provided, is actively licensed in the jurisdiction where the supervision occurs.

“Testing service” means Professional Examination Service (PES).
[ARC 9937B, IAB 12/28/11, effective 2/1/12]

645—240.2(154B) Requirements for licensure.

240.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. Each application shall be accompanied by the appropriate fees payable to the Board of Psychology. The fees are nonrefundable.

d. No application will be considered by the board until:

(1) Official copies of academic transcripts sent directly from the school to the board of psychology have been received by the board;

(2) Satisfactory evidence of the candidate’s qualifications has been supplied in writing on the prescribed forms by the candidate’s supervisors; and

(3) Rescinded IAB 9/24/08, effective 10/29/08.

(4) Rescinded IAB 9/4/02, effective 10/9/02.

e. An applicant shall successfully pass the national examination.

f. The applicant shall have the national examination score sent directly from the testing service to the board.

g. Rescinded IAB 9/24/08, effective 10/29/08.

h. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

240.2(2) and 240.2(3) Rescinded IAB 9/4/02, effective 10/9/02.

645—240.3(154B) Educational qualifications. A new applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

240.3(1) The degree in psychology shall be granted by an institution accredited by the North Central Association of Colleges and Secondary Schools or an equivalent accrediting association or entity in other regions of the United States.

240.3(2) Rescinded IAB 9/24/08, effective 10/29/08.

240.3(3) Unless otherwise stated in these rules, at the time of an applicant’s graduation:

a. The program from which the doctoral degree in psychology is granted must be:

(1) Accredited by the American Psychological Association; or

(2) Accredited by the Canadian Psychological Association; or

(3) Designated by the Association of State and Provincial Psychology Boards (ASPPB)/National Register Designation Project as a doctoral program in psychology; or

b. The applicant must hold a specialty diploma by examination from the American Board of Professional Psychology.

240.3(4) Applicants who were matriculated prior to January 12, 2005, in a doctoral program of psychology that the board determines is equivalent to programs meeting one of the criteria in subrule 240.3(3) shall be deemed to have met the educational requirement. This provision does not apply to applicants who are foreign-trained.

240.3(5) Foreign-trained psychologists shall:

a. Provide an equivalency evaluation of their educational credentials by the National Register of Health Service Providers in Psychology, 1120 G Street NW, Suite 330, Washington, D.C. 20005, telephone (202)783-7663, Web site www.nationalregister.org, or by an evaluation service with membership in the National Association of Credentials Evaluation Services, Inc., at www.naces.org. A certified translation of documents submitted in a language other than English shall be provided. The candidate shall bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in 240.3(3).

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a psychology program in the country in which the applicant was educated.

c. Submit evidence of meeting all other requirements for licensure stated in these rules.

d. Receive a final determination from the board regarding the application for licensure.

[ARC 9937B, IAB 12/28/11, effective 2/1/12]

645—240.4(154B) Examination requirements. An applicant must pass the national examination to be eligible for licensure in Iowa.

240.4(1) To be eligible to take the national examination, the applicant shall:

a. Meet all requirements of subrule 240.2(1), paragraphs “a” to “c”; and

b. Provide official copies of academic transcripts sent directly from the school to the board of psychology.

240.4(2) Notification of an applicant’s eligibility for the examination shall be sent by the board office to the testing service.

240.4(3) The EPPP passing score shall be utilized as the Iowa passing score.

240.4(4) The board of psychology shall mail examination results to the applicant.

240.4(5) Rescinded IAB 9/24/08, effective 10/29/08.

645—240.5(154B) Title designations.

240.5(1) Applicants for licensure who have met educational requirements but have not yet passed the EPPP may be designated “psychology associate” or “associate in psychology.” The title “psychology associate” or “associate in psychology” shall not be used except in the person’s employment and supervision that meet the requirements of subrules 240.6(1) and 240.6(2).

240.5(2) Applicants for licensure who have passed the EPPP and who are fulfilling the experience requirements specified herein for licensure may be designated “psychology resident” or “resident in psychology.” The designation of “resident” shall not be used except in the employment and supervised experience that meet the requirements of subrules 240.6(1) and 240.6(2).

[ARC 9937B, IAB 12/28/11, effective 2/1/12]

645—240.6(154B) Supervised professional experience.

240.6(1) The supervised professional experience shall:

a. Be one year or a minimum of 1500 hours of supervised professional experience;

b. Apply the principles of psychology;

c. Be supervised by a licensed psychologist in accordance with subrule 240.6(2) and rule 645—240.9(154B);

d. Be performed competently as attested to by the supervisor;

e. Have the fees and receipt of payment schedule remain the sole domain of the employing agency or supervising psychologist.

240.6(2) Requirements.

a. To meet the requirements of the supervised professional experience, the supervisee must:

(1) Meet face to face and individually with the supervisor during each week in which experience hours are accrued, for no less than a total of 45 hours during the period of supervised professional experience;

(2) Have training that is appropriate to the functions to be performed;

- (3) Work in the same physical setting as the supervisor unless a completed off-site supervision form is submitted to and approved by the board;
- (4) Offer work in the name of the supervising psychologist;
- (5) Begin the experience after all academic requirements for the doctoral degree are met and when all degree requirements are verified in writing;
- (6) Not apply professional employment that occurs prior to meeting the doctoral academic requirements to the supervised professional experience; and
- (7) Have the background, training, and experience that is appropriate to the functions performed.
 - b. To meet the requirements of the supervised professional experience, the supervisor must:
 - (1) Be a licensed psychologist as specified in rule 645—240.1(154B);
 - (2) Complete the supervision form provided by the board;
 - (3) Meet face to face and individually with the supervisee during each week in which experience hours are accrued, for no less than a total of 45 hours during the period of supervised professional experience;
 - (4) Provide training that is appropriate to the functions to be performed;
 - (5) Work in the same physical setting as the supervisee unless a completed off-site supervision form is submitted to, and approved by the board;
 - (6) Have work offered in the name of the supervising psychologist;
 - (7) Have no more than three full-time persons associated with the supervisor as listed on the supervisor report form obtained from the board;
 - (8) Not provide group supervision as part of the 45 hours required for individual supervision;
 - (9) Not supervise any psychological practice or permit the supervisor's supervisee to engage in any psychological practice which the supervisor cannot perform competently; and
 - (10) Be responsible for determining competency of the work performed by the supervisee and the designation of the title of the supervisee.

240.6(3) Employment experience which is offered to satisfy one provision of the law may not be simultaneously offered to satisfy the educational provisions of the law. For example, employment experiences which are part of the required preparation for the doctoral degree will be applicable only to the doctoral degree requirements and may not be simultaneously offered to satisfy the supervised professional experience requirement.

240.6(4) Professional employment experience acquired by the applicant between the time all requirements were fulfilled for the doctoral degree and the time of the actual conferral of the degree may be credited toward the professional employment experience requirements for licensing, provided that the date of completion of all degree requirements is verified in writing by an appropriate academic official. Verification must come directly to the board from the academic official.

[ARC 9937B, IAB 12/28/11, effective 2/1/12]

645—240.7(154B) Certified health service provider in psychology.

240.7(1) *Requirements for the health service provider in psychology.* The applicant shall:

a. Verify at least two years of clinical experience in a recognized health service setting or meet the standards of the National Register of Health Service Providers in Psychology. Two years of clinical experience means two years of supervised experience in health service in psychology, of which at least one year is in an organized health service training program as defined in these rules and one year is in a recognized health service setting as defined in these rules that meets the requirements for supervised professional experience stated in subrules 240.6(1) and 240.6(2).

b. Complete a board-approved application and submit supporting documentation. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to the Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by

the board. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

- (1) Considered invalid and shall be destroyed; or
 - (2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.
- c. Submit with the application the health service provider fee payable to the Board of Psychology. The fee is nonrefundable.
 - d. Renew the certificate biennially at the same time as the psychology license renewal fees are due.

240.7(2) Requirements of the organized health service training program. Internship programs in professional psychology that are accredited by the Commission on Accreditation of the American Psychological Association (APA) or that hold membership in the Association of Psychology Postdoctoral and Internship Centers (APPIC) are deemed approved. Applicants completing an organized health service training program that is not APA-approved or APPIC-designated at the time the applicant completes the training shall cause documentation to be sent from the program to establish that the program:

- a. Provides the intern with a planned, programmed sequence of training experiences.
- b. Has a clearly designated doctoral-level staff psychologist who is responsible for the integrity and quality of the training program and is actively licensed by the board of psychology in the jurisdiction in which the program exists.
- c. Has two or more doctoral-level psychologists on the staff who serve as primary supervisors and are actively licensed by the board of psychology in the jurisdiction in which the program exists.
- d. Has supervision that is provided by staff members of the organized health service training program or by an affiliate of the organized health service training program who carry clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more doctoral-level psychologists.
- e. Provides training in a range of psychological assessment and treatment activities conducted directly with recipients of psychological services.
- f. Ensures that trainees have a minimum of 375 hours of direct patient contact.
- g. Includes a minimum of two hours per week (regardless of whether the internship is completed in one year or two years) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also be at least two additional hours per week in learning activities such as case conferences involving a case in which the intern is actively involved, seminars dealing with clinical issues, cotherapy with a staff person including discussion, group supervision, and additional individual supervision.
- h. Has training that is at the postclerkship, postpracticum, and postexternship level.
- i. Has a minimum of two interns at the internship level of training during any period of training.
- j. Designates for internship-level trainees titles such as “intern,” “resident,” “fellow,” or other designation of trainee status.
- k. Has a written statement or brochure which describes the goals and content of the internship, states clear expectations for quantity and quality of trainees’ work and is made available to prospective interns.
- l. Provides a minimum of 1500 hours of training experience that shall be completed in no less than 12 months within a 24-consecutive-month period.

[ARC 9937B, IAB 12/28/11, effective 2/1/12]

645—240.8(154B) Exemption to licensure. Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall file a summary of intent to practice and provide verification of the license from the other jurisdiction. The summary shall be submitted to and approved by the board prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

The summary and supporting documentation shall be accompanied by a check or money order for the processing fee for exemption to licensure pursuant to 645—Chapter 243. The fee is nonrefundable and shall be submitted payable to the Board of Psychology.

645—240.9(154B) Psychologists' supervision of unlicensed persons in a practice setting. The supervising psychologist shall:

1. Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the supervising psychologist, the supervising psychologist must have direct input into administrative matters.

2. Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work shall be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors shall also be available for emergency consultation and intervention.

3. Provide work assignments that shall be commensurate with the skills of the supervisee. All procedures shall be planned in consultation with the supervisor.

4. Work in the same physical setting as the supervisee, unless other individual arrangements are approved by the board of psychology.

5. Make public announcement of services and fees; contact with laypersons or the professional community shall be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.

6. Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person's status and information regarding the person's qualifications and functions.

7. Inform clients of the possibility of periodic meetings with the supervising psychologist at the client's, the supervisee's or the supervisor's request.

8. Provide for setting and receipt of payment that shall remain the sole domain of the employing agency or supervising psychologist.

9. Establish and maintain a level of supervisory contact consistent with established professional standards, and be fully accountable in the event that professional, ethical or legal issues are raised.

10. Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description shall be made available to representatives of the board and service recipients upon request.

11. Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

12. Maintain an ongoing record of supervision which details the types of activities in which the unlicensed person is engaged, the level of competence in each, and the type and outcome of all procedures.

13. Countersign all written reports and communications as "Reviewed and Approved" by the supervising psychologist.

645—240.10(147) Licensure by endorsement. An applicant who has been a licensed psychologist at the doctoral level under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

240.10(1) Submits to the board a completed application.

240.10(2) Pays the licensure fee.

240.10(3) Provides one of the following: the official EPPP score sent directly to the board from the Association of State and Provincial Psychology Boards, or verification of the EPPP score sent directly from the state of initial licensure. The recommended passing score established by the Association of State and Provincial Psychology Boards shall be considered passing.

240.10(4) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

240.10(5) Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

- a. Provides:
 - (1) Official copies of academic transcripts that have been sent directly from the school; and
 - (2) Satisfactory evidence of the applicant's qualifications in writing on the prescribed forms by the applicant's supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision; or

- b. Has an official copy of one of the following certifications sent directly to the board from the certifying organization.

- (1) Current Certification of Professional Qualification that was originally issued by the Association of State and Provincial Psychology Boards on or after January 1, 2002.

- (2) Current credentialing at the doctoral level as a Health Service Provider in Psychology by the National Register of Health Service Providers in Psychology.

- (3) Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

240.10(6) Rescinded IAB 9/24/08, effective 10/29/08.

[ARC 9937B, IAB 12/28/11, effective 2/1/12]

645—240.11(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure in psychology.

645—240.12(147) License renewal.

240.12(1) The biennial license renewal period for a license to practice psychology shall begin on July 1 of even-numbered years and end on June 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

240.12(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

240.12(3) A licensee seeking renewal shall:

- a. Meet the continuing education requirements of rule 645—241.2(272C) and the mandatory reporting requirements of subrule 240.12(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

- b. Submit the completed renewal application and renewal fee before the license expiration date.

240.12(4) Mandatory reporter training requirements.

- a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

- b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

Training may be completed through separate courses as identified in paragraphs “a” and “b” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “a” to “c,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 241.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

240.12(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

240.12(6) A person licensed to practice as a psychologist shall keep the person’s license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

240.12(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 243.1(3).

a. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

b. No continuing education shall be required.

240.12(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a psychologist or health service provider in psychology in Iowa until the license is reactivated. A licensee who practices as a psychologist or health service provider in psychology in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 9937B, IAB 12/28/11, effective 2/1/12]

645—240.13(272C) Exemptions for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—240.14(272C) Lapsed licenses. Rescinded IAB 8/31/05, effective 10/5/05.

645—240.15(147) Duplicate certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—240.16(147) Reissued certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—240.17(17A,147,272C) License denial. Rescinded IAB 9/24/08, effective 10/29/08.

645—240.18(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

240.18(1) Submit a reactivation application on a form provided by the board.

240.18(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

240.18(3) Provide verification of current competence to practice as a psychologist or health service provider in psychology by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—240.19(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—240.18(17A,147,272C) prior to practicing as a psychologist or health service provider in psychology in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, and 272C.

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[◇] Two or more ARCs

CHAPTER 242
DISCIPLINE FOR PSYCHOLOGISTS
[Prior to 7/11/01, see 645—Chapter 240]

645—242.1(154B) Definitions.

“Board” means the board of psychology.

“Discipline” means any sanction the board may impose upon licensees.

“Licensee” means a person licensed to practice psychology in Iowa.

645—242.2(147,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—242.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

242.2(1) Failure to comply with the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, as published in the December 2002 edition of American Psychologist, hereby adopted by reference. Copies of the Ethical Principles of Psychologists and Code of Conduct may be obtained from the American Psychological Association’s Web site at <http://www.apa.org>.

242.2(2) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

242.2(3) Professional incompetence. Professional incompetence includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other psychologists in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average psychologist acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed psychologist in this state.

e. Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and component manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

242.2(4) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of psychology or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

242.2(5) Practice outside the scope of the profession.

242.2(6) Use of untruthful or improbable statements in advertisements.

242.2(7) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee’s ability to practice with reasonable skill or safety.

242.2(8) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

242.2(9) Falsification, alteration or destruction of client or patient records with the intent to deceive.

242.2(10) Acceptance of any fee by fraud or misrepresentation.

242.2(11) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

242.2(12) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

242.2(13) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of psychology.

242.2(14) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory or country; or failure of the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

242.2(15) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of psychology in another state, district, territory or country.

242.2(16) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

242.2(17) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

242.2(18) Engaging in any conduct that subverts or attempts to subvert a board investigation.

242.2(19) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

242.2(20) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

242.2(21) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

242.2(22) Failure to pay costs assessed in any disciplinary action.

242.2(23) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

242.2(24) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

242.2(25) Knowingly aiding, assisting, or advising a person to unlawfully practice psychology.

242.2(26) Failure to report a change of name or address within 30 days after it occurs. Name and address changes may be reported on the form provided by the board at: www.idph.state.ia.us/licensure.

242.2(27) Representing oneself as a licensed psychologist when one's license has been suspended or revoked, or when one's license is on inactive status.

242.2(28) Permitting another person to use the licensee's license for any purpose.

242.2(29) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license to practice psychology.

242.2(30) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

- a. Verbally or physically abusing a patient or client.
- b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.
- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.

242.2(31) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

242.2(32) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

[ARC 9945B, IAB 12/28/11, effective 2/1/12]

645—242.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—242.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—242.5(154B) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 12/28/11, effective 2/1/12.

These rules are intended to implement Iowa Code chapters 147, 154B and 272C.

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RESPIRATORY CARE PRACTITIONERS

CHAPTER 261	LICENSURE OF RESPIRATORY CARE PRACTITIONERS
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CHAPTER 261
LICENSURE OF RESPIRATORY CARE PRACTITIONERS

[Prior to 4/17/02, see 645—Chapter 260]

645—261.1(152B) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of respiratory care.

“*CoARC*” means the Commission on Accreditation for Respiratory Care.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Licensee*” means any person licensed to practice as a respiratory care practitioner in the state of Iowa.

“*License expiration date*” means March 31 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice respiratory care to an applicant who is or has been licensed in another state.

“*NBRC*” means the National Board of Respiratory Care.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—261.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice respiratory care to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of respiratory care to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

[ARC 8348B, IAB 12/2/09, effective 1/6/10]

645—261.2(152B) Requirements for licensure.

261.2(1) The following criteria shall apply to licensure:

a. The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Respiratory Care, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board until properly completed.

c. Each application shall be accompanied by the appropriate fees specified in 645—subrule 5.17(1).

d. The applicant shall submit two completed sets of the fingerprint packet to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) criminal history background checks shall be assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

e. The applicant has satisfactorily completed the certification or registration examination for respiratory therapists administered by the NBRC.

f. Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

261.2(2) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

645—261.3(152B) Educational qualifications.

261.3(1) The applicant shall have successfully completed a respiratory care education program accredited by, or under a letter of review from, the Commission on Accreditation for Respiratory Care (CoARC).

261.3(2) Foreign-trained respiratory care practitioners shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

[ARC 8348B, IAB 12/2/09, effective 1/6/10]

645—261.4(152B) Examination requirements. The examination required by the board shall be the National Board of Respiratory Care Examination or the State Clinical Examination administered by the NBRC.

261.4(1) The applicant shall apply directly to the National Board of Respiratory Care.

261.4(2) Results of the examination must be received by the board of respiratory care by one of the following methods:

a. Scores sent directly from the examination service to the board of respiratory care;

b. A notarized certificate shall be submitted showing proof of the successful completion of the examination for respiratory therapists or respiratory therapy technicians administered by the National Board of Respiratory Care; or

c. A notarized copy of the scores or an electronic Web-based confirmation by the department showing proof of successful completion.

645—261.5(152B) Students.

261.5(1) A student enrolled in an approved respiratory care training program who is employed in an organized health care system may render services defined in Iowa Code sections 152B.2 and 152B.3 under the direct and immediate supervision of a respiratory care practitioner for the duration of the respiratory care practitioner program, not to exceed the duration of the respiratory care program.

261.5(2) Direct and immediate supervision of a respiratory care student means that the licensed respiratory care practitioner shall:

a. Be continuously on site and present in the department or facility where the student is performing care;

b. Be immediately available to assist the person being supervised in the care being performed; and

c. Be responsible for care provided by students.

645—261.6(152B) Licensure by endorsement. An applicant who has been a licensed respiratory care practitioner under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;

2. Pays the licensure fee specified in rule 645—5.17(147,152B);
3. Submits two completed sets of the fingerprint packet to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks shall be assessed to the applicant;
4. Shows evidence of licensure requirements that are similar to those required in Iowa;
5. Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board;
6. Provides the examination scores:
 - Scores shall be sent directly from the examination service to the board of respiratory care; or
 - A notarized certificate shall be submitted showing proof of the successful completion of the examination for respiratory therapists or respiratory therapy technicians administered by the National Board for Respiratory Care; and
7. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:
 - Licensee's name;
 - Date of initial licensure;
 - Current licensure status; and
 - Any disciplinary action taken against the license.

645—261.7(147) Licensure by reciprocal agreement. Rescinded IAB 11/19/08, effective 1/1/09.

645—261.8(152B) License renewal.

261.8(1) The biennial license renewal period for a license to practice respiratory care shall begin on April 1 of an even-numbered year and end on March 31 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of the responsibility for renewing the license.

261.8(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

261.8(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—262.2(152B,272C) and the mandatory reporting requirements of subrule 261.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

261.8(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “a” to “c,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 262.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

261.8(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

261.8(6) A person licensed to practice as a respiratory care practitioner shall keep the person’s license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

261.8(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in rule 645—5.17(147,152B). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

261.8(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice respiratory care in Iowa until the license is reactivated. A licensee who practices respiratory care in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 9933B, IAB 12/28/11, effective 2/1/12]

645—261.9(272C) Exemptions for inactive practitioners. Rescinded IAB 6/8/05, effective 7/13/05.

645—261.10(272C) Lapsed licenses. Rescinded IAB 6/8/05, effective 7/13/05.

645—261.11(147) Duplicate certificate or wallet card. Rescinded IAB 11/19/08, effective 1/1/09.

645—261.12(147) Reissued certificate or wallet card. Rescinded IAB 11/19/08, effective 1/1/09.

645—261.13(17A,147,272C) License denial. Rescinded IAB 11/19/08, effective 1/1/09.

645—261.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

261.14(1) Submit a reactivation application on a form provided by the board.

261.14(2) Pay the reactivation fee specified in rule 645—5.17(147,152B).

261.14(3) If the license has been inactive for two or more years, the licensee shall submit two completed sets of the fingerprint packet to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks shall be assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

261.14(4) Provide verification of current competence to practice respiratory care by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 24 hours of continuing education that conforms to standards defined in 645—262.3(152B,272C) within 24 months immediately preceding submission of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 48 hours of continuing education that conforms to standards defined in 645—262.3(152B,272C) within 24 months immediately preceding submission of the application for reactivation.

645—261.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—261.14(17A,147,272C) prior to practicing respiratory care in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 152B and 272C.

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CHAPTER 262
CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS
[Prior to 4/17/02, see 645—Chapter 261]

645—262.1(152B,272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of respiratory care.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Electronically transmitted*” means a program/activity that is videotaped, presented on the Iowa Communications Network (ICN), computer-based or other electronically based means that includes a posttest.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a respiratory care practitioner in the state of Iowa.

645—262.2(152B,272C) Continuing education requirements.

262.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on April 1 of each even-numbered year and ending on March 31 of the next even-numbered year. Each biennium, the licensee shall be required to complete a minimum of 24 hours of continuing education that meet the requirements specified in rule 645—262.3(152B,272C). Fourteen of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class employing in-person or live, real-time interactive media or by employing an archived audio or video presentation which permits the licensee a means to communicate with the presenter in real time.

262.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal.

262.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

262.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

262.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—262.3(152B,272C) Standards.

262.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date(s), location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

262.3(2) Specific criteria. Continuing education hours of credit may be obtained by:

- a. Programs/activities that shall be of a clinical nature related to the practice of respiratory care. Clinical nature subject matter is described as basic clinical processes that include information beyond the basic licensure requirements applicable to the normal development and use of the clinical respiratory care practitioner. Any communication course must involve the actual application to the practice of the respiratory care practitioner.
- b. Program presenters who will receive one hour of credit for each hour of presentation for the first offering of the continuing education program/activity.
- c. Academic coursework that meets the criteria set forth in the rules and is accompanied by an official transcript indicating successful completion of the course. Continuing education credit equivalents are as follows:
 - 1 academic semester hour = 15 continuing education hours
 - 1 academic quarter hour = 10 continuing education hours
- d. All courses offered by the American Association of Respiratory Care (AARC) continuing education programs/activities.
- e. Maximums per biennium are as follows:
 - (1) No more than ten hours of approved independent study for continuing education requirements in a given continuing education compliance period.
 - (2) The following are approved for continuing education credit on a one-time basis per biennium and require a certificate of attendance or verification:

CERTIFICATIONS:

Advanced Cardiac Life Support	up to 12 hours
Basic Cardiac Life Support—Instructor	up to 8 hours
Basic Cardiac Life Support	up to 6 hours
Neonatal Resuscitation	up to 9 hours
Pediatric Advanced Life Support	up to 14 hours
Mandatory Reporting	up to 4 hours

RECERTIFICATIONS:

Advanced Cardiac Life Support	up to 4 hours
Basic Cardiac Life Support	up to 2 hours
Neonatal Resuscitation	up to 3 hours
Pediatric Advanced Life Support	up to 3 hours

f. Unacceptable subject matter includes marketing, personal development, time management, human relations, collective bargaining and tours.
[ARC 9931B, IAB 12/28/11, effective 2/1/12]

645—262.4(152B,272C) Audit of continuing education report. Rescinded IAB 12/28/11, effective 2/1/12.

645—262.5(152B,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—262.6(152B,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

- 262.6(1)** Failure to cooperate with a board audit.
- 262.6(2)** Failure to meet the continuing education requirement for licensure.
- 262.6(3)** Falsification of information on the license renewal form.
- 262.6(4)** Falsification of continuing education information.

645—262.7(152B,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver to a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

262.7(1) The board may grant an extension of time to fulfill the continuing education requirement.

262.7(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

262.7(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

These rules are intended to implement Iowa Code section 272C.2 and chapter 152B.

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CHAPTER 263
DISCIPLINE FOR RESPIRATORY CARE PRACTITIONERS
[Prior to 4/17/02, see rule 645—260.11(152B,272C)]

645—263.1(152B) Definitions.

“*Board*” means the board of respiratory care.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as a respiratory care practitioner in Iowa.

645—263.2(152B,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—263.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

263.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

263.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a respiratory care practitioner in this state.

e. Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

263.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

263.2(4) Practice outside the scope of the profession.

263.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to:

a. An action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

b. Inflated or unjustified expectations of favorable results.

c. Self-laudatory claims that imply that the respiratory care practitioner is skilled in a field or specialty of practice for which the practitioner is not qualified.

d. Extravagant claims or proclaiming extraordinary skills not recognized by the respiratory care profession.

263.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee’s ability to practice with reasonable skill or safety.

263.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

263.2(8) Falsification of client records.

263.2(9) Acceptance of any fee by fraud or misrepresentation.

263.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

263.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

263.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

263.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

263.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

263.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

263.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

263.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

263.2(18) Failure to comply with a subpoena issued by the board, or otherwise fail to cooperate with an investigation of the board.

263.2(19) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

263.2(20) Failure to pay costs assessed in any disciplinary action.

263.2(21) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

263.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

263.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a respiratory care practitioner.

263.2(24) Failure to report a change of name or address within 30 days after it occurs.

263.2(25) Representing oneself as a respiratory care practitioner when one's license has been suspended or revoked, or when one's license is on inactive status.

263.2(26) Permitting another person to use the licensee's license for any purpose.

263.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

263.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

- a. Verbally or physically abusing a patient, client or coworker.
- b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.
- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.

263.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

263.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

[ARC 8348B, IAB 12/2/09, effective 1/6/10; ARC 9933B, IAB 12/28/11, effective 2/1/12]

645—263.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—263.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—263.5(152B) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 11/19/08, effective 1/1/09.

These rules are intended to implement Iowa Code chapters 147, 152B and 272C.

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SOCIAL WORKERS

CHAPTER 280	LICENSURE OF SOCIAL WORKERS
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CHAPTER 280
LICENSURE OF SOCIAL WORKERS

645—280.1(154C) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“ASWB” means the Association of Social Work Boards.

“Board” means the board of social work.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“LBSW” means licensed bachelor social worker.

“Licensee” means any person licensed to practice as a social worker in the state of Iowa.

“License expiration date” means December 31 of even-numbered years.

“Licensure by endorsement” means the issuance of an Iowa license to practice social work to an applicant who is or has been licensed in another state.

“LISW” means licensed independent social worker.

“LMSW” means licensed master social worker.

“Mandatory training” means training on identifying and reporting child abuse or dependent adult abuse required of social workers who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“Private practice” means social work practice conducted only by an LISW who is either self-employed or a member of a partnership or of a group practice providing diagnosis and treatment of mental and emotional disorders or conditions. In this context, “group practice” means an association of professionals in which an LISW is independently engaged in the practice of social work and has ongoing control of the clinical, financial, administrative, and professional arrangements between the LISW and the clients/patients of the LISW.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—280.14(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice social work to an applicant who is currently licensed in another state and that state’s board of examiners has a mutual written agreement with the Iowa board of social work to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

[ARC 8371B, IAB 12/16/09, effective 1/20/10]

645—280.2(154C) Social work services subject to regulation. Social work services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the social worker, shall constitute the practice of social work and shall be subject to regulation in Iowa.

645—280.3(154C) Requirements for licensure. The following criteria shall apply to licensure:

280.3(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Social Work, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

280.3(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

280.3(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Social Work. The fees are nonrefundable.

280.3(4) No application shall be considered by the board until official copies of academic transcripts have been received by the board except as provided in 280.4(6).

280.3(5) The applicant shall provide verification of license(s) from every state in which the applicant has been licensed as a social worker, sent directly from the state(s) to the Iowa board of social work office.

280.3(6) The candidate shall take the examination(s) required by the board pursuant to these rules.

280.3(7) An applicant for a license as an independent social worker shall have met the requirements for supervision pursuant to 645—280.6(154C).

280.3(8) Each social worker who seeks to attain licensure as an independent social worker shall have been granted a master's or doctoral degree in social work and practiced at that level.

280.3(9) Notification of licensure shall be sent to the licensee by regular mail.

280.3(10) Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

280.3(11) Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

280.3(12) In lieu of the requirements in subrules 280.3(4) and 280.3(5), the board will accept the ASWB Social Work Registry verification of academic transcripts and verification of licensure in other states.

[ARC 8371B, IAB 12/16/09, effective 1/20/10]

645—280.4(154C) Written examination.

280.4(1) The applicant is required to take and pass the ASWB examination at the appropriate level as follows:

- a. Bachelor level social worker—the basic level examination.
- b. Master level social worker—the intermediate level examination.
- c. Independent level social worker—the clinical level examination.

280.4(2) The electronic examination shall be scheduled with ASWB.

280.4(3) Application for any required examination will be denied or deferred by the board if the applicant lacks the required education or practice experience.

280.4(4) The applicant and the board shall be notified of the ASWB examination results, and the applicant may receive the results at the time of the examination. The board will accept only official results from the ASWB examination service that are sent directly from the examination service to the board.

280.4(5) The ASWB passing score will be utilized as the Iowa passing score.

280.4(6) An applicant may sit for the examination if the applicant meets the requirements stated in 645—280.3(154C). Upon written request of the applicant, the board may authorize a student to sit

for the examination prior to the receipt of the official transcript if the student is in the last semester of an approved master of social work program. The student shall submit an application for licensure at the master's level and the fee, and, in lieu of a transcript, the student shall request that the school submit a letter directly to the board office. The letter shall state that the student is currently enrolled in a master of social work program and the student's expected date of graduation. Upon completion of degree requirements, the applicant shall have the transcript showing the date of the degree sent directly from the school to the board office at the Board of Social Work, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

280.4(7) In lieu of the requirements in subrule 280.4(4), the board will accept the ASWB Social Work Registry verification of the ASWB examination results.

[ARC 8371B, IAB 12/16/09, effective 1/20/10]

645—280.5(154C) Educational qualifications.

280.5(1) Bachelor level social worker. An applicant for a license as a bachelor level social worker shall present evidence satisfactory to the board that the applicant possesses a bachelor's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation.

280.5(2) Master level social worker. An applicant for a license as a master level social worker shall present evidence satisfactory to the board that the applicant:

- a. Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or
- b. Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.5(3) Independent level social worker. An applicant for a license as an independent level social worker shall present evidence satisfactory to the board that the applicant:

- a. Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or
- b. Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.5(4) Foreign-trained social workers shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or obtain a certificate of equivalency from the Council on Social Work Education, 1725 Duke Street, Suite 500, Alexandria, Virginia 22314-3457, telephone (703)683-8080, Web site <http://www.cswe.org>. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a social work program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—280.6(154C) Supervised professional practice for the LISW.

280.6(1) The supervised professional practice shall:

a. Be the equivalent of two years of full-time post-master's social work degree practice at the master's level performing psychosocial assessment, diagnosis and treatment; or

b. Be 4,000 hours of post-master's social work degree experience at the master's level performing psychosocial assessment, diagnosis and treatment over a minimum two-year and maximum six-year period;

c. Have at least 110 hours of supervision which shall be equitably distributed throughout a minimum of a two-year period; and

d. Be obtained in the following manner:

(1) Face-to-face meetings between the supervisor and the supervisee unless the board has granted an exception allowing for an alternate form of supervision, upon written request of the applicant.

(2) Group supervision obtained using the following criteria:

1. No more than 60 hours of the 110 hours of supervision may be provided in group supervision;

2. Group supervision may be composed of no more than six supervisees per group.

e. Include as at least one component of the diagnostic practice the identification of specific mental or emotional disorders or conditions demonstrating a working knowledge of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (DSM), the current edition.

f. Include the provision of treatment, which shall include but not be limited to evaluation of symptoms and behaviors; effects of the environment on behavior; psychosocial therapy with individuals, couples, families, or groups; establishment of treatment goals; and differential treatment planning.

280.6(2) The board maintains the authority to grant waivers relevant to the time parameters of the supervised professional practice upon written request of the applicant.

280.6(3) To meet the requirements of the supervised professional practice, the supervisor must:

a. Be an Iowa-licensed independent social worker as specified in rule 645—280.3(154C). An individual licensed in another state and providing supervision for an Iowa LISW candidate must be licensed at a level equivalent to Iowa's LISW level.

b. Have a minimum of 2,000 hours of practice earned over a period of two years of practice beyond receipt of a license to practice independent social work in Iowa or the equivalent license from another state.

c. Establish and maintain a plan throughout the supervisory period. Such a plan must be kept by the supervisor for a period of two years and must be submitted to the board upon its request for audit within 30 days from receipt of the request. The plan for supervision shall include:

(1) The name, license number, date of licensure, address and telephone number of supervisor;

(2) The name, license number, address and telephone number of supervisee;

(3) The beginning date of clinical work experience under supervision and estimated date of completion;

(4) A plan for direct supervision hours, including frequency of supervisor/supervisee's face-to-face meetings;

(5) A plan for any group supervision;

(6) The goals and objectives for the clinical work experience; and

(7) The signatures of the supervisor and supervisee, and the dates of signatures.

d. Be responsible for supervision within the following content areas:

(1) Practice skills;

(2) Practice management skills;

(3) Skills required for continuing competence;

(4) Development of professional identity; and

(5) Ethical practice.

e. Be accountable for the following areas of supervision:

(1) Area of social work practice;

(2) Agency providing services;

(3) Legal and regulatory requirements;

(4) Ethical standards of the profession; and

(5) Acceptance of professional responsibility for the social work services provided by the supervisee.

f. Complete a supervision report sheet at the end of the supervised professional experience. This sheet shall be answered in full and signed by both the supervisor and supervisee. This report shall be submitted to the board for review and approval prior to the board's approval of the supervisee to sit for the clinical-level examination.

g. Exceptions to this rule shall be made on an individual basis. Requests for alternative supervisors must be submitted in writing, and the board must approve the supervisor prior to commencement of the supervision.

280.6(4) To meet the requirements of the supervised professional practice, the supervisee shall:

a. Obtain a written release of information for protection of client confidentiality pursuant to 645—Chapter 282, if the supervisor and supervisee are not employed by the same agency.

b. Have the following documentation for supervision of independent practice:

(1) The plan for supervision that was created at the beginning of the period of supervision and that was maintained by the supervisor. If there has been a change of supervisors, the LISW candidate has the responsibility to have a termination evaluation completed by that supervisor and to have the copy submitted to the next supervisor. All termination evaluations shall be available to the board upon request. The supervision provided by all qualified supervisors who have a plan of supervision with the applicant can be counted toward meeting the criteria for supervision.

(2) At the end of supervision, the supervisee shall have any and all supervisors complete a supervision report sheet provided by the board of social work. This report shall be answered in full and signed by both the supervisor and supervisee. This report shall be submitted to the board for review and approval prior to the board's approval of the supervisee to sit for the clinical-level examination.

[ARC 8371B, IAB 12/16/09, effective 1/20/10; ARC 8586B, IAB 3/10/10, effective 4/14/10]

645—280.7(154C) Licensure by endorsement. An applicant who has been a licensed social worker under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides official copies of the academic transcripts;
5. Provides official copies of the examination score sent directly from the ASWB; and
6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

In lieu of the requirements in numbered paragraphs "4," "5," and "6" of this rule, the board will accept the ASWB Social Work Registry verification of academic transcripts, examination scores, and licensure in other states.

645—280.8(154C) Licensure by reciprocal agreement. Rescinded IAB 3/10/10, effective 4/14/10.

645—280.9(154C) License renewal.

280.9(1) The biennial license renewal period for a license to practice social work shall begin on January 1 of odd-numbered years and end on December 31 of the next even-numbered year. Every licensee shall renew on a biennial basis. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of the responsibility for renewing the license.

280.9(2) Renewal procedures.

a. A licensee seeking renewal shall:

(1) Meet the continuing education requirements of rule 645—281.2(154C,272C) and the mandatory reporting requirements of subrule 280.9(3). A licensee whose license was reactivated

during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

(2) Submit the completed renewal application and renewal fee before the license expiration date.

b. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

c. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

d. Persons licensed to practice social work shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

e. Failure to receive the notice of renewal shall not relieve the licensee of the responsibility for submitting the required materials and the renewal fee to the board office 30 days before license expiration.

f. A pending application for a higher level of licensure does not relieve the social worker of the renewal or reactivation requirements. A social worker applying for a higher level shall renew the license that is held at the current level at the time of the renewal.

g. A social worker whose Iowa license is inactive, delinquent, closed, retired, voluntarily surrendered, suspended, or revoked cannot advance to a higher level until the license is again active.

280.9(3) Mandatory reporting of child abuse and dependent adult abuse.

a. A licensee who regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “*f.*”

b. A licensee who regularly examines, attends, counsels or treats dependent adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “*f.*”

c. A licensee who regularly examines, attends, counsels or treats both dependent adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting in dependent adults and children or condition(s) for waiver of this requirement as identified in paragraph “*f.*”

d. Training may be completed through separate courses as identified in paragraphs “*a*” and “*b*” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.

e. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “*a*” to “*c*,” including program date(s), content, duration, and proof of participation.

f. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including waiver of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 281.

g. The board may select licensees for audit of compliance with the requirements in paragraphs “*a*” to “*e*.”

280.9(4) Late renewal. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

280.9(5) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a social worker in Iowa until the license is reactivated. A licensee who

practices as a social worker in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

280.9(6) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

[ARC 8371B, IAB 12/16/09, effective 1/20/10; ARC 9934B, IAB 12/28/11, effective 2/1/12]

645—280.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—280.11(272C) Lapsed licenses. Rescinded IAB 8/31/05, effective 10/5/05.

645—280.12(272C) Duplicate certificate or wallet card. Rescinded IAB 3/10/10, effective 4/14/10.

645—280.13(17A,147,272C) License denial. Rescinded IAB 3/10/10, effective 4/14/10.

645—280.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

280.14(1) Submit a reactivation application on a form provided by the board.

280.14(2) Pay the reactivation fee that is due as specified in 645—Chapter 284.

280.14(3) Provide verification of current competence to practice social work by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation; and

(3) Verification of taking and passing the ASWB examination at the appropriate level as follows:

1. Bachelor level social worker – the bachelor's level examination; or
2. Master level social worker – the master's level examination; or
3. Independent level social worker – the clinical level examination.

645—280.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—280.14(17A,147,272C) prior to practicing social work in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154C and 272C.

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⁰ Two or more ARCs

¹ Effective date of rules 161.212 to 161.217 delayed 70 days by the Administrative Rules Review Committee.

² Effective date of 280.100(154C) is July 1, 1993.

³ Effective date of **ARC 9102A** delayed 70 days by the Administrative Rules Review Committee at its meeting held July 13, 1999; delay lifted at the meeting held August 3, 1999, effective August 4, 1999.

CHAPTER 283
DISCIPLINE FOR SOCIAL WORKERS

[Prior to 9/19/01, see 645—Chapter 280]

[Prior to 9/3/03, see 645—Chapter 282]

645—283.1(154B) Definitions.

“*Board*” means the board of social work.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice social work.

[ARC 8371B, IAB 12/16/09, effective 1/20/10]

645—283.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—283.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

283.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to:

a. An intentional perversion of the truth in making application for a license to practice in this state;
b. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

c. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

283.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other social workers in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average social worker acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of licensed social workers in this state.

283.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of social work or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

283.2(4) Practice outside the scope of the profession.

283.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

283.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee’s ability to practice with reasonable skill or safety.

283.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

283.2(8) Falsification of client records.

283.2(9) Acceptance of any fee by fraud or misrepresentation.

283.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the licensee’s ability to safely and skillfully practice the profession.

283.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

283.2(12) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of social work, including, but not limited to, the rules of conduct found in 645—282.2(154C).

283.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report such action in writing within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

283.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of social work in another state, district, territory or country.

283.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

283.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

283.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

283.2(18) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

283.2(19) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

283.2(20) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

283.2(21) Failure to pay costs assessed in any disciplinary action.

283.2(22) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

283.2(23) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

283.2(24) Knowingly aiding, assisting or advising a person to unlawfully practice social work.

283.2(25) Failure to report a change of name or address within 30 days after it occurs.

283.2(26) Representing oneself as a licensed social worker when one's license has been suspended or revoked, or when one's license is on inactive status.

283.2(27) Permitting another person to use the licensee's license for any purpose.

283.2(28) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

283.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

- a. Verbally or physically abusing a client or coworker.
- b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.
- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.
- e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

283.2(30) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

283.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.
[ARC 9930B, IAB 12/28/11, effective 2/1/12]

645—283.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—283.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—283.5(154C) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 3/10/10, effective 4/14/10.

These rules are intended to implement Iowa Code chapters 147, 154C and 272C.

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SPEECH PATHOLOGISTS AND AUDIOLOGISTS

CHAPTER 300	LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 301	RESERVED
CHAPTER 302	RESERVED
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CHAPTER 300
LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

645—300.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“ASHA” means the American Speech-Language Hearing Association.

“Assistant” means a person who works under the supervision of an Iowa-licensed speech pathologist or audiologist, does not meet the requirements to be licensed as a speech pathologist or audiologist, and meets the minimum requirements set forth in these rules.

“Audiologist” means a person who engages in the application of principles, methods and procedures for measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to disorders of hearing and associated communication disorders for the purpose of nonmedically evaluating, identifying, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals, including the determination and use of appropriate amplification.

“Board” means the board of speech pathology and audiology.

“Full-time” means a minimum of 30 hours per week.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Licensee” means any person licensed to practice as a speech pathologist or audiologist in the state of Iowa.

“License expiration date” means December 31 of odd-numbered years.

“Licensure by endorsement” means the issuance of an Iowa license to practice speech pathology or audiology to an applicant who is or has been licensed in another state.

“On site” means:

1. To be continuously on site and present in the department or facility where services are being provided;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—300.17(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice speech pathology or audiology to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of speech pathology and audiology to license persons that have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Speech pathologist” means a person who engages in the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to the development and disorders of speech, fluency, voice, or language for the purpose of nonmedically evaluating, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals.

645—300.2(147) Speech pathology and audiology services subject to regulation. The provision of speech pathology or audiology services in Iowa through telephonic, electronic, or other means, regardless of the location of the speech/language pathologist or audiologist, shall constitute the practice of speech pathology or audiology and shall require Iowa licensure.

645—300.3(147) Requirements for licensure. The following criteria shall apply to licensure:

300.3(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Speech Pathology and Audiology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

300.3(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

300.3(3) Each application shall be accompanied by the appropriate fees payable to the Board of Speech Pathology and Audiology. The fees are nonrefundable.

300.3(4) The application shall include:

a. An official copy of a current American Speech-Language Hearing Association (ASHA) certificate of clinical competence; or

b. Submission of the following:

(1) Official copies of academic transcripts sent directly from the school to the board showing proof of possession of a master’s degree in speech pathology or a master’s or doctoral degree in audiology or the equivalent of one of these degrees and official verification of completion of not less than 400 hours of supervised clinical training;

(2) Verification of nine months of full-time clinical experience, or equivalent, completed after the master’s degree, under the supervision of a licensed speech pathologist or audiologist or as a part of the doctoral degree; and

(3) Results of the National Teacher Examination.

300.3(5) Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

300.3(6) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

645—300.4(147) Educational qualifications.

300.4(1) The applicant shall possess the following:

a. A master’s degree from an accredited school, college or university with a major in speech pathology; or

b. A master’s or doctoral degree from an accredited school, college or university with a major in audiology.

300.4(2) Foreign-trained speech pathologists and audiologists shall:

- a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.
- b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a speech pathology or audiology program in the country in which the applicant was educated.
- c. Receive a final determination from the board regarding the application for licensure.

645—300.5(147) Examination requirements. The examination required by the board shall be the National Teacher Examination in speech pathology or audiology. This examination is administered by the Educational Testing Service. The applicant should contact the nearest accredited college or university for the time and place of the examination.

300.5(1) The applicant has full responsibility for making arrangements to take the National Teacher Examination in speech pathology or audiology and for bearing all expenses associated with taking the examination. The applicant also has the responsibility for having the examination scores sent directly to the board from the Educational Testing Service.

300.5(2) The board shall determine the qualifying scores for both the speech pathology and audiology examinations.

645—300.6(147) Temporary clinical license. A temporary clinical license for the purpose of obtaining clinical experience as a prerequisite for licensure is valid for one year and may be renewed at the discretion of the board.

300.6(1) A speech pathology applicant must submit the following to the board:

- a.* Evidence of supervision by a speech pathologist with an active, current Iowa license in good standing;
- b.* An official application form provided by the board and completed by the applicant;
- c.* An official copy of the transcript, sent directly from the school to the board, showing proof of possession of a master's degree in speech pathology;
- d.* Official verification of completion of not less than 400 hours of supervised clinical training in an accredited college or university;
- e.* The temporary clinical license fee; and
- f.* Results of the National Teacher Examination.

300.6(2) An audiology applicant or an applicant completing a doctoral externship must submit the following to the board:

- a. Evidence of supervision by an audiologist with an active, current Iowa license in good standing. The applicant completing an audiology doctoral externship must show evidence of on-site supervision;
- b. An official application form provided by the board and completed by the applicant;
- c. An official copy of the transcript, sent directly from the school to the board, showing proof of possession of a master's degree in audiology;
- d. Official verification of completion of not less than 400 hours of supervised clinical training in an accredited college or university;
- e. The temporary clinical license fee; and
- f. Results of the National Teacher Examination.

300.6(3) The plan for supervised clinical experience must be approved by the board before the applicant starts practice and shall:

- a. Include at least nine months of full-time clinical experience, or equivalent;
- b. Include supervision by an Iowa-licensed speech pathologist or audiologist, as appropriate. If the applicant is being supervised by more than one individual, each supervisor must submit a supervised clinical experience plan for approval. If there is a change in the supervised clinical experience plan at any

time during the supervised clinical experience, the licensee must contact the board for approval within 30 days of the change;

- c. Be kept by the supervisor for two years from the last date of the clinical experience; and
- d. Include a completed supervised clinical experience report form that shall be submitted to the board of speech pathology and audiology upon the applicant's successful completion of the nine months of full-time clinical experience. If the applicant was supervised by more than one individual, each supervisor must submit a supervised clinical experience report. The applicant may then apply for licensure.

[ARC 8872B, IAB 6/30/10, effective 8/4/10]

645—300.7(147) Temporary permit.

300.7(1) A nonresident may apply to the board for a temporary permit to practice speech pathology or audiology:

- a. For a period not to exceed three months;
- b. By submitting a letter to support the need for such a permit;
- c. By submitting documents to show that the applicant has substantially the same qualifications as required for licensure in Iowa;
- d. By submitting the documentation prior to the date the applicant intends to begin practice; and
- e. By submitting the temporary permit fee.

300.7(2) The applicant shall receive a final determination from the board regarding the application for a temporary permit.

645—300.8(147) Use of assistants. A licensee shall, in the delivery of professional services, utilize assistants only to the extent provided in these rules.

300.8(1) Duties.

- a. *Speech pathology assistant I.* A speech pathology assistant I works with an individual for whom significant improvement is expected within a reasonable amount of time.
- b. *Speech pathology assistant II.* A speech pathology assistant II works with an individual for whom maintenance of present level of communication is the goal; or for whom, based on the history and diagnosis, only slow improvement is expected.
- c. *Audiology assistant I.* An audiology assistant I is more broadly trained and may be given a variety of duties depending upon the individual's training.
- d. *Audiology assistant II.* An audiology assistant II is trained specifically for a single task for screening.

300.8(2) Minimum requirements.

a. A speech pathology assistant I or II or audiology assistant I must satisfy the following minimum requirements:

- (1) Reach the age of majority;
- (2) Complete a high school education, or its equivalent; and
- (3) Complete one of the following:
 - 1. A three-semester-hour (or four-quarter-hour) course in introductory speech and language pathology for speech pathology assistants or in audiology for audiology assistants from an accredited educational institution and 15 hours of instruction in the specific tasks which the assistant will be performing; or
 - 2. A minimum training period comprised of 75 clock hours on instruction and practicum experience.
- b. An audiology assistant II must satisfy the following requirements:
 - (1) Reach the age of majority.
 - (2) Complete a high school education, or its equivalent.
 - (3) Complete a minimum of 15 clock hours of instruction and practicum experience in the specific task which the assistant will be performing.

300.8(3) Utilization. Utilization of a speech pathology or audiology assistant requires that a plan be developed by the licensee desiring to utilize that assistant, consisting of the following information:

- a. Documentation that the assistant meets minimum requirements;
- b. A written plan of the activities and supervision that must be kept by the licensee supervising the assistant. This supervision must include direct on-site observation for a minimum of 20 percent of the assistant's direct patient care for level I speech pathology and level I audiology assistants and 10 percent for level II speech pathology assistants. Level II audiology assistants must be supervised 10 percent of the time. At least half of that time must be direct on-site observation with the other portion provided as time interpreting results;
- c. A listing of the facilities where the assistant will be utilized; and
- d. A statement, signed by the licensee and the assistant, that the rules pertaining to assistants have been read by both.

300.8(4) Maximum number of assistants. A licensee may not utilize more than three assistants unless a plan of supervision is filed and approved by the board.

300.8(5) Supervisor responsibilities. A licensee who utilizes an assistant shall have the following responsibilities:

- a. To be legally responsible for the actions of the assistant in that assistant's performance of assigned duties with a client;
- b. To make all professional decisions relating to the management of a client;
- c. To ensure that the assistant is assigned only those duties and responsibilities for which the assistant has been specifically trained and is qualified to perform;
- d. To ensure compliance of the assistant(s) under supervision with the provisions of these rules by providing periodic direct observation and supervision of the activities of the assistant; and
- e. To submit to the board of speech pathology and audiology upon request a copy of the plan of activities and supervision for each assistant and documentation of the dates each assistant was utilized by the licensee.

645—300.9(147) Licensure by endorsement. An applicant who has been a licensed speech pathologist or audiologist under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of a current ASHA certificate or at least nine months of full-time clinical experience or its equivalent;
4. Shows evidence that the National Teacher Examination scores have been sent directly from the examination service to the board;
5. Provides official copies of the academic transcripts; and
6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:
 - Licensee's name;
 - Date of initial licensure;
 - Current licensure status; and
 - Any disciplinary action taken against the license.

645—300.10(147) Licensure by reciprocal agreement. Rescinded IAB 6/30/10, effective 8/4/10.

645—300.11(147) License renewal.

300.11(1) The biennial license renewal period for a license to practice speech pathology or audiology shall begin on January 1 of an even-numbered year and end on December 31 of the next odd-numbered

year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

300.11(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

300.11(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—303.2(147) and the mandatory reporting requirements of subrule 300.11(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

c. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

300.11(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirements as identified in paragraph "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 303.

f. The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

300.11(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

300.11(6) A person licensed to practice as a speech pathologist or audiologist shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

300.11(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 305.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

300.11(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a speech pathologist or audiologist in Iowa until the license is reactivated. A licensee who practices as a speech pathologist or audiologist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.
[ARC 9947B, IAB 12/28/11, effective 2/1/12]

645—300.12(17A,147,272C) Board meetings.

300.12(1) Board meetings shall be governed in accordance with Iowa Code chapter 21, and board proceedings shall be conducted to ensure that all members have equal rights, privileges and obligations.

300.12(2) A majority of the members of the board shall constitute a quorum.

300.12(3) The board shall discuss all motions prior to a vote to allow for full and free discussion of every motion.

300.12(4) Official action, including filing of formal charges or imposition of discipline, requires a majority vote of members present.

[ARC 9947B, IAB 12/28/11, effective 2/1/12]

645—300.13(272C) Lapsed licenses. Rescinded IAB 9/14/05, effective 10/19/05.

645—300.14(147) Duplicate certificate or wallet card. Rescinded IAB 6/30/10, effective 8/4/10.

645—300.15(147) Reissued certificate or wallet card. Rescinded IAB 6/30/10, effective 8/4/10.

645—300.16(17A,147,272C) License denial. Rescinded IAB 6/30/10, effective 8/4/10.

645—300.17(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

300.17(1) Submit a reactivation application on a form provided by the board.

300.17(2) Pay the reactivation fee that is due as specified in 645—Chapter 305.

300.17(3) Provide verification of current competence to practice speech pathology and audiology by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 30 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and

4. Any disciplinary action taken against the license; and
- (2) Verification of completion of 60 hours of continuing education within two years of application for reactivation; or
- (3) Verification of passing the National Teacher Examination (NTE) for Speech Pathology or Audiology within the last two years prior to application for reactivation.

645—300.18(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 300.17(17A,147,272C) prior to practicing speech pathology and audiology in this state.

These rules are intended to implement Iowa Code chapters 17A, 147 and 272C.

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[◇] Two or more ARCs

CHAPTER 304
DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

[Prior to 9/9/87, see Health Department [470], Ch 156]

[Prior to 9/19/01, see 645—Chapter 301]

645—304.1(147) Definitions.

“Board” means the board of speech pathology and audiology.

“Discipline” means any sanction the board may impose upon licensees.

“Licensee” means a person licensed to practice as a speech pathologist or audiologist in Iowa.

645—304.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—304.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

304.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, the following:

- a.* An intentional perversion of the truth in making application for a license to practice in this state;
- b.* False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or
- c.* Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

304.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

- a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other speech pathologists or audiologists in the state of Iowa acting in the same or similar circumstances.
- c.* A failure to exercise the degree of care which is ordinarily exercised by the average speech pathologist or audiologist acting in the same or similar circumstances.
- d.* Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed speech pathologist or audiologist in this state.

304.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

304.2(4) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

304.2(5) Practice outside the scope of the profession.

304.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee’s ability to practice with reasonable skill or safety.

304.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

304.2(8) Falsification of client records.

304.2(9) Acceptance of any fee by fraud or misrepresentation includes, but is not limited to, billing for services which were not rendered or charging fees which are inconsistent with any prior agreements reached with the clients.

304.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation

of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

304.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

304.2(12) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of speech pathology or audiology.

304.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure of the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

304.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of speech pathology or audiology in another state, district, territory or country.

304.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

304.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

304.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

304.2(18) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

304.2(19) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

304.2(20) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

304.2(21) Failure to pay costs assessed in any disciplinary action.

304.2(22) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

304.2(23) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

304.2(24) Knowingly aiding, assisting, or advising a person to unlawfully practice speech pathology or audiology.

304.2(25) Failure to report a change of name or address within 30 days after it occurs.

304.2(26) Representing oneself as a licensed speech pathologist or audiologist when one's license has been suspended or revoked, or when one's license is on inactive status.

304.2(27) Permitting another person to use the licensee's license for any purpose.

304.2(28) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

304.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

- a. Verbally or physically abusing a client or coworker.
- b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.
- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.
- e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

304.2(30) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

304.2(31) Violation of the following code of ethics:

- a. Claims of expected clinical results shall be based upon sound evidence and shall accurately convey the probability and degree of expected improvement.
- b. Records shall be adequately maintained for the period of time required by applicable state and federal laws.
- c. Persons served professionally or the files of such persons will be used for teaching or research purposes only after obtaining informed consent from those persons or from the legal guardians of such persons.
- d. Information of a personal or professional nature obtained from persons served professionally will be released only to individuals authorized by the persons receiving professional service or to those individuals to whom release is required by law.
- e. Relationships between professionals and between a professional and a client shall be based on high personal regard and mutual respect without concern for race, religious preference, sex, or age.
- f. Referral of clients for additional services or evaluation and recommendation of sources for purchasing appliances shall be without any consideration for financial or material gain to the licensee making the referral or recommendation for purchase.
- g. Licensees who dispense products to persons served professionally shall provide clients with freedom of choice for the source of services and products.
- h. Failure to comply with current Food and Drug Administration regulations 21 CFR §801.420, "Hearing aid devices; professional and patient labeling," and 21 CFR §801.421, "Hearing aid devices, conditions for sale."

304.2(32) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

[ARC 8872B, IAB 6/30/10, effective 8/4/10; ARC 9947B, IAB 12/28/11, effective 2/1/12]

645—304.3(272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—304.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;

6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—304.5(147) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 1/14/09, effective 2/18/09.

These rules are intended to implement Iowa Code chapters 147 and 272C.

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TREASURER OF STATE[781]

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CHAPTER 9
UNCLAIMED PROPERTY
[Prior to 5/18/88, see Treasurer 781—Ch 2]

781—9.1(556) Purpose. Iowa Code chapter 556 authorizes the treasurer of state to establish administrative rules that are necessary for the purpose of carrying out the provisions of Iowa Code chapter 556, the uniform disposition of unclaimed property Act.

This rule is intended to implement Iowa Code chapter 556.
[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.2(556) Forms. The following approved forms will be used by the unclaimed property division:

9.2(1) Claim Form, together with, as applicable, the Affidavit of Lost Certificate, Affidavit of Administration, and Affidavit of Distributory Responsibility as well as other applicable affidavits, is the form required by the division for a claimant to file and support a claim relative to unclaimed property held in custody by the division.

9.2(2) Safe Deposit Box Inventory Form is the form that may be used by holders in the inventory and reporting of contents of safe deposit boxes reportable under the Act.

9.2(3) Holder Report Forms UP1 (also referred to as Holder Verification Form or Holder Report Cover Sheet) and UP2 are the forms holders are required to use to report unclaimed property.

9.2(4) Holder Reimbursement Form (or a form by another name that this office distributes to reimburse an owner or holder) is the form holders are required to use to request that the state pay an owner directly or to seek reimbursement from the state in cases when the holder has paid the claim of a reappearing owner, pursuant to Iowa Code section 556.14(5).

This rule is intended to implement Iowa Code chapter 556.
[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.3(556) Definitions. In addition to the terms defined in Iowa Code section 556.1, the following words or terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means the uniform disposition of unclaimed property Act, Iowa Code chapter 556.

“Aggregate property” means individual items of intangible property with a value of less than \$50 each, which have been “aggregated” by a holder and reported and delivered to the division in a lump sum.

“Book shares” means debt or equity securities which are maintained in book entry form only and for which no physical certificate was or is issued.

“Claimant” means a person or legal entity entitled to reclaim abandoned property in the possession of the division. A claimant may be an original owner, legal representative, or successor in interest.

“Contract auditor” means any person or entity engaged or hired by the treasurer or the division to provide unclaimed property examination services. “Contract auditor” includes agents, employees and any subcontractor engaged by a contract auditor or engaged by its subcontractors.

“Credits, advance payments, overpayments, refunds, or credit memoranda,” for purposes of Iowa Code section 556.1(12), means current accounts receivable of a business association that have not been reduced to a check or other form of payment. “Credits, advance payments, overpayments, refunds, or credit memoranda,” for purposes of Iowa Code section 556.1(12), shall not include uncashed checks or other unclaimed payments due and owing to a business association for its provision of goods or services, with respect to any other type of obligation.

“Custodial property” means property transferred to a custodian for a minor under the provisions of (1) the Iowa UTMA, (2) the Uniform Transfer to Minors Act, (3) the Uniform Gifts to Minors Act, or (4) a substantially similar Act of another state if, at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

“Division” means the Iowa unclaimed property division within the Iowa treasurer of state’s office that has the responsibility of administering the Act.

“Dormancy fee” means a service charge, dormancy charge, inactive account fee, escheat fee, minimum balance fee, maintenance fee, unclaimed property fee, or any other charge that results in the reduction of an account balance or property value, which is not directly related to a transaction initiated by an owner.

“Dormancy period” means the statutorily specified span of time after which an owner’s failure to indicate an interest in property will result in the property’s being presumed abandoned and subject to reporting and delivery to the division.

“Due diligence” means the efforts required to be undertaken by a holder of unclaimed property to find the rightful owner of such property before the property is delivered to the division.

“Finder” means a person hired or engaged to assist owners, heirs or other persons in the recovery of unclaimed property reported under the Act.

“Finder agreement” means an agreement to pay a fee, commission, or other compensation to a finder to identify, locate, deliver, recover, or assist in the recovery of unclaimed property reported under the Act.

“Funds for liquidation” means unclaimed funds which are held by a holder on behalf of an owner of debt or equity securities and which are owing as a result of the liquidation of the securities issuer.

“Indication of interest” means an action by an owner with respect to the owner’s property which indicates that the owner is aware of the existence of the property and intends for the property not to be presumed abandoned. Examples of an owner’s indication of interest include, but are not limited to, the following: an owner-initiated deposit or withdrawal from an account; notification to a holder of a change of address specific to the account; and any communication, such as written or electronic correspondence, telephone call or person-to-person conversation between an owner and a holder (or the agent of a holder), which can be documented and which reflects an owner’s awareness of the existence of the property.

“Intangible property” means such property as described in Iowa Code section 556.1(12).

“Iowa uniform transfer to minors Act” or *“Iowa UTMA”* means Iowa Code chapter 565B.

“Last activity date” means the last verifiable date of owner-initiated activity or contact with respect to unclaimed property.

“Matured bond principal” means unclaimed funds which are held by a holder for a bond holder pending the bond holder’s redemption of debt securities.

“Retained asset account” means any mechanism whereby the settlement of proceeds payable under a life insurance policy is accomplished by deposit by the insurer, or an entity acting on behalf of the insurer, depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer pursuant to a supplementary contract not involving annuity benefits.

“Tangible property” means the physical contents of a safe deposit box or other safekeeping repository, or physical items held as collateral by a banking organization, financial organization, or business association, that are reportable and deliverable to the division.

“Treasurer” means the treasurer of the state of Iowa.

“Undelivered shares” means unclaimed physically issued debt or equity securities, which were returned to the issuer by the post office as undeliverable, or which were otherwise never delivered into the possession of the owner.

“Underlying shares” means unclaimed physically issued debt or equity securities which are presumably in the possession of an owner.

“Unexchanged shares” means unclaimed debt or equity securities which are held by a holder on behalf of an owner, pending the owner’s surrender of obsolete debt or equity securities in conjunction with an acquisition, merger, recapitalization, or similar mandatory corporate action.

This rule is intended to implement Iowa Code section 556.1.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.4(556) Dormancy fees and related charges.

9.4(1) Iowa Code chapter 556 authorizes the following dormancy fees:

a. Lawful charges withheld from abandoned demand, savings, or matured time deposits held by a financial organization.

b. Charges on unpresented travelers checks and money orders, when a valid and enforceable contract to assess the charges exists, and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel such charges for the benefit of the owner.

c. Charges on unpresented checks, drafts, or similar instruments on which a financial organization is directly liable, where a valid and enforceable written contract to assess the charges exists and the holder regularly imposes such charges and does not regularly reverse or otherwise cancel such charges for the benefit of the owner.

d. Deductions from the face value of a gift certificate or gift card resulting from untimely presentment or usage, where a valid and enforceable written contract was provided in conjunction with the issuance of the gift certificate or gift card, and the issuer of the gift certificate or gift card regularly imposes and does not regularly reverse or otherwise cancel the deduction for the benefit of the owner.

9.4(2) Dormancy fees not authorized by Iowa Code chapter 556 are prohibited.

9.4(3) Except for unclaimed accounts of less than \$50 at the time of reporting, all dormancy fees assessed against an unclaimed account must be disclosed in the report of unclaimed property filed with the division.

This rule is intended to implement Iowa Code section 556.2.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.5(556) Reporting and delivery of safe deposit box contents.

9.5(1) Safe deposit boxes or other safekeeping depositories that have been abandoned shall be opened and inventoried in the presence of at least two employees of the holder.

9.5(2) The holder shall list the contents of each box inventoried and provide that list to the division. The Safe Deposit Box Inventory Form or any financial institution's internal inventory form may be used and provided to the division.

9.5(3) The property and a copy of the inventory shall then be sealed for safekeeping until delivered to the owner or to the division when required by the Act. The holder may not convert the property to cash or reduce cash property to check; all property is to be delivered in its original form and "as is" to the owner or, if required, to the division.

9.5(4) Property transferred to the division shall be packaged in a reasonably protective manner to prepare for transportation to the division. Property should be delivered to the division via certified mail or insured courier. The holder assumes all risk of loss pending receipt of the property by the division.

This rule is intended to implement Iowa Code section 556.2.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.6(556) Reporting of individual retirement accounts (IRAs) and other retirement accounts.

9.6(1) The reporting and delivery of property in an individual retirement account, defined contribution plan, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States shall be extended until three years after the earliest of the following has occurred:

a. The date of unsuccessful distribution;

b. The date of the required distribution, as stated in agreements governing the account; or

c. The date specified in the income tax laws of the United States by which a distribution must occur in order for the owner to avoid a tax penalty.

9.6(2) In reporting individual retirement accounts and other retirement accounts, holders shall include the name, address, and social security number of the account beneficiary, to the extent such information is known.

This rule is intended to implement Iowa Code section 556.7.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.7(556) Reporting of certificates of deposit and other time deposits. If an automatically renewable time deposit or nonrenewable time deposit is deemed abandoned prior to its initial maturity,

the time for the reporting and delivery of the time deposit to the division will be extended to the date of maturity or three years from the date at which the abandonment period commenced, whichever is later.

This rule is intended to implement Iowa Code section 556.7.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.8(556) Indication of interest by an owner in a certificate of deposit or other time deposit.

9.8(1) The following acts by the owner of a time deposit shall constitute nonabandonment of the time deposit:

a. Consent in writing to a renewal of the time deposit at or about the time of renewal and signed by the owner, given by delivery of the original or a signed facsimile or an e-mail transmission of the facsimile initiated by the owner, or demonstrated by the existence of a memorandum or other record on file with the holder made at the time of renewal; or

b. The owner, within three years after the earlier of the maturity date or the date of the owner's last indication of interest in the deposit, has:

(1) Increased or decreased the amount or presented the passbook or other similar evidence of the deposit for the crediting of interest due;

(2) Communicated in writing with the financial organization concerning the time deposit, including requesting that the time deposit be redeemed;

(3) Otherwise demonstrated an indication of interest in the deposit as evidenced by a memorandum or other record on file prepared by an employee of the financial organization;

(4) Owned other property to which subparagraphs 9.8(1) "b" (1), (2), and (3) above apply and the financial organization communicates with the owner about the deposit that would otherwise be presumed abandoned under this subrule in writing at the address to which communications regarding the other property regularly are sent; or

(5) Had another relationship other than time or demand deposits, such as, but not limited to, a safe deposit box, mortgage, stocks, bonds or other investments, with the financial organization concerning which the owner has:

1. Communicated in writing with the banking or financial organization; or

2. Demonstrated an indication of interest as evidenced by a memorandum or other record on file prepared by an employee of the financial organization.

9.8(2) Consent to renewal of a time deposit shall be presumed and the owner will be deemed to have demonstrated an indication of interest in a time deposit when the financial organization sends the owner notice of the renewal via first-class mail, address correction requested, and the notice is not returned to the financial organization by the post office for reason of nondelivery; provided, however, the financial organization must maintain a system for tracking and documenting return mail.

9.8(3) The date on which the owner has last demonstrated an indication of interest in and awareness of the owner's time deposit, as defined in paragraph 9.8(1) "a" above, or the date of maturity if no conduct evidencing such interest is made, whichever is earlier, shall begin the three-year abandonment period. However, when a written communication mailed to an owner is returned marked "undeliverable" or "unclaimed," the date of receipt by the financial organization of the returned mailing shall be deemed to begin the abandonment period. When periodic interest checks are issued on a time deposit, the abandonment period will commence on the date of an uncashed interest check, and the time deposit will be considered abandoned if all subsequent interest checks continue to remain uncashed through the entire statutory abandonment period, unless there is other conduct by the owner demonstrating an indication of interest in the time deposit as specified elsewhere in this subrule and applicable statutory law.

This rule is intended to implement Iowa Code section 556.7.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.9(556) Reporting of retained asset accounts. Funds held in a retained asset account maintained by a life insurance company on behalf of a beneficiary shall be reported and delivered to the division if

the beneficiary has failed to take such actions demonstrating an indication of interest in the account for a period of three years.

This rule is intended to implement Iowa Code section 556.9.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.10(556) Information required to be included in report.

9.10(1) All Holder Report Forms submitted to the division must include, to the extent such information is available to the holder, the following information:

- a. The owner's (and as applicable/available, the beneficiary's) name;
- b. The owner's (and as applicable/available, the beneficiary's) last-known address;
- c. The owner's (and as applicable/available, the beneficiary's) social security or federal tax identification number;
- d. Account number, policy number, or other similar account relationship identifier;
- e. Check number, certificate number, or other similar property identifier;
- f. Date of owner's last indication of interest; and
- g. Date the property became payable or distributable.

9.10(2) The division may find the Holder Report Form as nonconforming and may seek a revision of the form under any of the following circumstances:

- a. Form does not include complete information;
- b. Form does not reconcile to the property remittance;
- c. Form is not verified;
- d. Form is not verified by the appropriate individual as required by statute;
- e. Form reflects unauthorized service or other owner charges assessed by the holder;
- f. Form includes property which is not subject to Iowa Code chapter 556;
- g. Form has been filed electronically and cannot be read or converted by the division.

This rule is intended to implement Iowa Code section 556.11.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.11(556) Early reporting of unclaimed property.

9.11(1) A holder may request permission to report and deliver property to the division before it is presumed abandoned by sending a written request to the division.

9.11(2) The request must identify the property to be reported and delivered and the reasons for requesting permission to report and deliver the property prior to the date it is presumed abandoned.

9.11(3) The division may, at its sole discretion, consent to early reporting and delivery according to terms and conditions prescribed by the division.

This rule is intended to implement Iowa Code section 556.11.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.12(556) Due diligence. Holders shall exercise reasonable and necessary due diligence consistent with good business practice in attempting to reactivate dormant accounts and to locate owners of unclaimed property.

This rule is intended to implement Iowa Code section 556.11.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.13(556) Reporting aggregate amounts to the division. Holders may report in aggregate to the division items of property with a value of under \$50. Holders are encouraged not to aggregate unclaimed dividend checks, oil royalties, and other payments of a recurring nature, regardless of the item value.

This rule is intended to implement Iowa Code section 556.11.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.14(556) Regulation of finders.

9.14(1) Pursuant to Iowa Code section 556.11(10), agreements or contracts between finders and owners to pay compensation to recover or assist in the recovery of abandoned property are unenforceable

if made within 24 months of the date the property was received by the division. In no case shall the finder fees or compensation exceed 15 percent of the amount of the property subject to claim.

9.14(2) A claim form signed by a finder shall not be reviewed by the division. The apparent owner or owner's legal representative shall make direct contact with the division and sign the claim form. All communication regarding the claim will be sent to the claimant. A signed, dated and notarized copy of any original agreement or contract between a finder and an owner shall be included with the filing of any claim. Handwritten agreements or contracts will not be accepted.

9.14(3) Owner information shall be reproduced in a format to be determined by the treasurer at least annually and shall be provided to anyone requesting the information for a fee of \$20 per copy. The fee shall be paid in the form of an official check or money order and made payable to the State of Iowa. All fees for owner information shall be received by the division before the owner information is made available.

This rule is intended to implement Iowa Code section 556.11.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.15(556) Disposition of safe deposit box contents.

9.15(1) Except as stated in subrules 9.15(2) and 9.15(3), the contents of safe deposit boxes and other tangible property received by the division shall be held by the division for not less than one year, after which time the property will be offered through public sale.

9.15(2) Medals awarded for military service in the armed forces of the United States shall not be auctioned.

9.15(3) If the treasurer determines, after investigation and after an attempt to dispose of the unclaimed property in accordance with the Act, that the probable cost of sale exceeds the value of the property, the treasurer may destroy or otherwise dispose of the property at any time.

This rule is intended to implement Iowa Code section 556.17.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.16(556) Filing of owner claims.

9.16(1) All claims for abandoned property shall be filed with the division on the division's claim form or such other documents as the division finds acceptable.

9.16(2) The claim form shall be completed in its entirety and must include the following information:

- a. Social security number or tax identification number, or both, of all claimants;
- b. Signature of claimant(s). If the claim is over \$200 or includes stock(s) or safe deposit box contents, the signature must be notarized.

9.16(3) The treasurer shall consider any claim filed under the Act.

This rule is intended to implement Iowa Code section 556.19.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.17(556) Documentation of claims by individuals. A claimant should provide the following supporting documentation with claims, as applicable, if the claim is being made by the person that is set forth as the apparent owner of the unclaimed property in the report filed with the division:

9.17(1) A copy of the claimant's driver's license or other government-issued identification.

9.17(2) A copy of a document verifying the claimant's social security number.

9.17(3) A document showing the claimant's address as it was reported to the division may be required if the holder did not report the social security number to the division. Examples of relevant documentation include a federal Form W-2, pay stub, bank statement, expired driver's license, stock certificate, college transcript, report card, marriage certificate, divorce decree, birth certificate, or an original (not a copy) of a postmarked envelope addressed to the claimant.

9.17(4) If the claimant's name has changed, copies of supporting documentation showing the name change.

9.17(5) If the property subject to claim is a joint account, each surviving claimant must provide:

- a. The claimant's signature, a copy of the claimant's driver's license, and a document verifying the social security number for each joint owner; or

b. Where one or more joint owners are deceased, a copy of the deceased joint owner's death certificate.

9.17(6) If the property subject to claim is being claimed in the capacity of a guardian or conservator or under a power of attorney, the claimant must provide:

- a. A copy of the letter of appointment;
- b. Documentation identifying the claimant and the owner; and
- c. If the owner is a minor, a copy of the owner's birth certificate and a document verifying the owner's social security number. No power of attorney filed by a finder will be recognized by the division for the purpose of making a claim.

9.17(7) If the property subject to claim is a security, in addition to the documentation required by this rule, the claimant must provide the original stock certificate(s).

9.17(8) If the property subject to claim is being claimed in the capacity of an executor or administrator, the claimant shall submit evidence as outlined in the Affidavit of Administration as provided by the treasurer of state.

This rule is intended to implement Iowa Code section 556.19.
[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.18(556) Documentation of claims by business entities.

9.18(1) Businesses must provide the following supporting documentation with their claims, as applicable:

- a. Proof of authority to conduct business on behalf of the entity, such as corporate resolution or other documentation deemed suitable by the treasurer.
- b. Documentation setting forth the claimant's FEIN number.
- c. A copy of the claimant's biennial report as filed with the office of the secretary of state or a copy of a current corporate tax return.

9.18(2) Claimants filing on behalf of businesses that are no longer in existence must additionally provide documentation that the claimant is the successor in interest to the rights of the discontinued business entity.

This rule is intended to implement Iowa Code section 556.19.
[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.19(556) Certification of entitlement by claimant.

9.19(1) The claimant shall affirmatively certify that the claimant is the true owner of the unclaimed property and agree to hold harmless and indemnify the division, its employees, and the state in the event of a superior claim to such property by another claimant or person.

9.19(2) If the subject property is more than \$200, is security-related, or is a safe deposit box, the signature of the claimant must be notarized by a notary public or be guaranteed by an officer of a financial institution.

This rule is intended to implement Iowa Code section 556.19.
[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.20(556) Claims by holders for owner reimbursements. A holder may make payment to the apparent owner and file a proof of payment with the division. Upon receiving reimbursement from the division, the holder shall assume liability for the claimed assets and indemnify and hold harmless the division from all future claims related to the claimed assets.

This rule is intended to implement Iowa Code section 556.19.
[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.21(556) Claims to custodial property under the Iowa UTMA or similar Acts.

9.21(1) A claim to custodial property may be made by the custodian of the property, or the legal representative thereof, provided that the minor has not yet reached the age of 21 years.

9.21(2) Upon reaching the age of 21 years, a minor may file a claim to custodial property.

This rule is intended to implement Iowa Code section 556.19.
[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.22(556) Claimant interest in unclaimed property.

9.22(1) The division shall have the authority to determine a claimant's interest in unclaimed property.

9.22(2) An apparent owner's interest in unclaimed property held by the division may not be transferred to a third party except in the following circumstances:

a. As a remnant asset in bankruptcy;

b. Under an agreement that assigns the apparent owner's interest in the unclaimed property where the agreement is otherwise valid and meets the following criteria:

(1) The agreement is made at least 24 months after the date payment or delivery is made under Iowa Code section 556.13;

(2) The agreement is in writing and signed by the apparent owner; and

(3) The agreement discloses the nature and value of the property and the name and address of the person in possession of the property.

9.22(3) Notwithstanding subrule 9.22(2), the interest of a deceased apparent owner may pass pursuant to the Iowa probate code and related statutory provisions.

9.22(4) For the purposes of the Act, a money judgment against an apparent owner does not create an interest in the specific property held by the division on behalf of the apparent owner.

This rule is intended to implement Iowa Code section 556.19.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.23(556) Approval of claims. Each claim submitted to the division must receive two levels of approval. Claims over a cash value of \$5000 must receive three levels of approval.

9.23(1) Level One approval shall be obtained from the division staff person(s) who receives the claim form. This approval shall be given if it is determined that the claimant has submitted all documentation required. If any documentation is missing when a claim form is sent to the division for approval, division staff will mail a letter to the claimant explaining what documentation is missing from the claimant's submission. Level One approval shall then be applied only if all required documentation is subsequently submitted by the claimant.

9.23(2) Level Two approval shall be obtained from the division staff person(s) designated to approve claims at this level.

9.23(3) Level Three approval shall be required for claims over a cash value of \$5000 and shall be obtained from the division staff person(s) designated to approve claims at this level.

This rule is intended to implement Iowa Code section 556.19.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.24(556) Payment of claims.

9.24(1) Claims shall be paid as follows:

a. In the case of cash claims, approval shall cause the claim to become part of the settlement process. The settlement file will be submitted to the department of administrative services for payment. State warrants will be mailed or may be obtained from the treasurer's office.

b. In the case of a claim requiring the transfer of stock and mutual fund shares, Level Two or Three approval shall result in the division's sending a letter to a third-party agent responsible for the transfer of ownership of the stocks/mutual funds, instructing the agent to have ownership of the appropriate number of shares of the property reregistered in the name of the claimant.

9.24(2) In the case of safe deposit box contents that have not been liquidated, the claimant may assume physical custody of the contents from the division. The claimant may also request that the contents be mailed to the claimant. Any contents mailed to claimants will be sent via United States Postal Service (USPS). The division is not responsible for items lost, damaged, or not delivered by the USPS.

9.24(3) Payment for all claims made to an owner who has been assisted by a finder shall be made only to the owner and in no instance to the finder.

This rule is intended to implement Iowa Code section 556.19.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.25(556) Surety bonds. If the property subject to claim is a security and the original stock certificate is not available, in addition to the documentation required by rules 781—9.16(556) and 781—9.17(556), the claimant must complete the Affidavit of Lost Certificate. The treasurer of state may require the claimant to furnish the treasurer with a surety bond containing terms and provisions acceptable to the treasurer and issued by a corporate surety. The claimant shall be responsible for all premiums, costs, fees or other expenses associated with any such surety bond.

This rule is intended to implement Iowa Code section 556.20.
[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.26(556) Examination of holders. The division may conduct an examination of a holder if the division has reason to believe a holder has failed to report or has underreported unclaimed property pursuant to the Act.

9.26(1) Examination and review. The treasurer may authorize employees of the treasurer and contract auditors to conduct examinations and review records in the course of an examination.

9.26(2) Examination entrance letter. The division shall send an examination entrance letter to holders selected for examination.

9.26(3) Examination records request. Holders subject to examination are required to comply with any and all requests for records that are made by the division or any contract auditor conducting an examination.

9.26(4) Examination entrance conference. The division, at its option, shall conduct an examination entrance conference with a holder prior to the commencement of an examination, at which the division shall identify the examination period and describe the general examination methods that will be used including, but not limited to, any estimation techniques that may be utilized.

This rule is intended to implement Iowa Code section 556.23.
[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.27(556) Estimation. The division may use estimation techniques where no holder records exist or the records are insufficient to determine the holder's obligation due pursuant to the Act.

9.27(1) Report of the examination findings. Upon completion of an examination, the division shall provide a written report reflecting the total unclaimed property reporting liability and, pursuant to the Act, any interest due on amounts due and owing for failure to report and deliver property due and payable for prior years. The division has the discretion to hold a conference with the holder to provide the written report.

9.27(2) Delivery of examination findings by the holder. The holder shall deliver to the division within 30 calendar days any unclaimed property and interest due to the division based upon the examination findings.

9.27(3) Examination closure letter. Upon receipt of the examination report and delivery of unclaimed property resulting from the examination, the division shall issue an examination closure letter informing the holder that the examination is closed.

This rule is intended to implement Iowa Code section 556.23.
[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.28(556) Appeal of examination findings. A holder may appeal the examination findings of the division.

9.28(1) The holder may utilize the appeals process after receipt of the examination report from the division.

9.28(2) Failure to submit the appeal request within 30 calendar days shall constitute an acceptance of the total unclaimed property reporting liability findings.

9.28(3) The holder shall submit to the division a written request for an appeal along with all supporting documentation.

9.28(4) The division shall contact the holder and schedule an appeal meeting within 20 calendar days of receipt of the holder's appeal request.

9.28(5) An appeal review shall be conducted at which time the holder shall present evidence supporting the holder's basis of the appeal.

9.28(6) Based on the evidence and additional information presented during the appeal, the division will render a decision. Such decision will be written and sent to the holder within 30 calendar days of the appeal meeting.

9.28(7) The holder shall file a report with the division and deliver unclaimed property to the division reflecting the unclaimed property reporting liability and interest due on amounts due and owing as determined by the division within 30 calendar days.

This rule is intended to implement Iowa Code section 556.23.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.29(556) Entering into contracts with contract auditors. The treasurer may enter into contracts with persons, pursuant to procedures prescribed by the treasurer, for the sole purpose of examining the records of holders to determine compliance with the Act. The treasurer may consider any relevant factors when entering into a contract for services requested in the performance of an unclaimed property examination.

This rule is intended to implement Iowa Code chapter 556.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

781—9.30(556) Guidelines. Contract auditors shall adhere to the following guidelines.

9.30(1) Contract auditors shall not participate in examinations in which such participation could be construed or perceived as a conflict of interest. Should the contract auditor believe that it could not conduct an assigned examination due to a conflict of interest or for any other reason, the contract auditor shall notify the division. The division shall then determine whether recusal of the contract auditor from the assignment is appropriate or necessary. If the contract auditor is recused from conducting the examination of a holder, another contract auditor may be assigned.

9.30(2) Contract auditors shall maintain strict confidentiality of any nonpublic records or documents gathered during the course of an examination in accordance with the auditors' contract.

9.30(3) Contract auditors shall properly document their review and make their working papers gathered during examinations available on demand for review by the treasurer and the attorney general's office.

9.30(4) Upon request, contract auditors shall provide the holder with relevant copies of working papers supporting any calculation made of unclaimed property reportable and deliverable to the treasurer.

9.30(5) Contract auditors shall maintain working papers for a minimum of seven years following the completion of the examination assignment, the delivery of unclaimed property, the resolution of any appeal, or the finality of judgment in any litigation, whichever is later.

9.30(6) Contract auditors shall conduct examinations consistent with the Act and other applicable law, policies of the treasurer, generally accepted accounting principles, generally accepted auditing standards, and any relevant examination rules promulgated pursuant to the Act as they relate to the reporting and delivery of unclaimed property from holders or persons.

This rule is intended to implement Iowa Code chapter 556.

[ARC 9936B, IAB 12/28/11, effective 2/1/12]

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VOTER REGISTRATION COMMISSION[821]

Prior to 3/21/90, Voter Registration Commission[845]

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CHAPTER 12
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- 12.1(48A) Primary and general election polling place change—voter notification required

CHAPTER 12
VOTER NOTIFICATIONS

821—12.1(48A) Primary and general election polling place change—voter notification required. When a precinct polling place used for the primary or general election is permanently changed by the county commissioner pursuant to Iowa Code section 49.10, the county commissioner shall mail every registered voter with a status of “active” who is affected by the change a notification informing the voter of the change. The county commissioner may either send a notice of the change to each household at which a voter with a status of “active” is registered or send notice of the change to each registered voter with a status of “active.” The notification shall be sent at the time the polling place change is made.

[ARC 9943B, IAB 12/28/11, effective 2/1/12]

This rule is intended to implement Iowa Code section 48A.26.

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